

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

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

STATE OF FLORIDA,

Plaintiff,

-vs-

BRANDON BRADLEY,

Defendant.

ORIGINAL

TRANSCRIPT OF DIGITAL
STATUS CONFERENCE RECORDING

FILED IN 14-01
OFFICE OF CLERK, CL
BREVARD COUNTY, FL

2014 SEP 30 P 3:06

SCOTT ELLIS

The transcript of the hearing
taken in the above-styled cause at Moore Justice Center,
2825 Judge Fran Jamieson Way, Viera, Florida, 32940, on
the 23rd of September, 2014, before the Honorable
Morgan Laur Reinman, commencing at 8:35 a.m.

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A P P E A R A N C E S

APPEARING FOR PLAINTIFF

JAMES MCMASTER, ESQUIRE
Office of the State Attorney
2725 Judge Fran Jamieson Way
Building B
Viera, Florida 32940
(321) 617-7510

APPEARING FOR DEFENDANT

MICHAEL MARIO PIROLO, ESQUIRE
Assistant Public Defender
2725 Judge Fran Jamieson Way
Building E, 2nd Floor
Viera, Florida 32910
(321) 617-7373

ALSO PRESENT:

Kimberly Barding, Appellate Deputy Clerk
Kevin McBride, Clerk's Attorney
Stacey Kircher, Rep for Attorney General's Office
(Via Telephone)

* * * * *

P R O C E E D I N G S

1
2 THE COURT: Okay. Ms. Billy, you can put
3 through the representative from the
4 Attorney General's Office.

5 (Phone ringing.)

6 THE COURT: Judge Reinman speaking, who am I
7 speaking with?

8 MS. KIRCHER: Morning, Judge, this is
9 Stacey Kircher from the Attorney General's Office
10 in Daytona Beach.

11 THE COURT: Okay. We're here this morning in
12 the case of the State of Florida versus
13 Brandon Lee Bradley. This is our Case No.
14 05-2012-CF-035337 and the Supreme Court
15 Case No. 14-1412.

16 If all parties present will identify
17 themselves for the record. We'll start with
18 Mr. McMaster.

19 MR. MCMASTER: Jim McMaster from the
20 State Attorney's Office.

21 MR. PIROLO: Mike Pirolo on behalf of
22 Mr. Bradley.

23 MR. MCBRIDE: Kevin McBride, the Clerk's
24 attorney; and Kimberly Barding, the
25 Appellate Deputy Clerk.

1 THE COURT: Okay. Thank you for being here,
2 I appreciate it.

3 Mr. Pirolo, are we waiving the appearance of
4 the defendant?

5 MR. PIROLO: Yes, Your Honor.

6 THE COURT: Okay. Madame Clerk, I just want
7 to make sure that these proceedings are being
8 digitally recorded; is that correct?

9 THE CLERK: Let me double check that right
10 now.

11 THE COURT: Okay. I asked them if they were
12 digitally recording, and they said, Yes. I just
13 want to make sure. We don't always digitally
14 record everything in this courtroom, I want to make
15 sure it's being recorded.

16 THE CLERK: Yes, we are.

17 THE COURT: Okay. Pursuant to the
18 Supreme Court's order dated Monday, July 21st,
19 2014, it provides transcripts along with diskettes
20 for the parties only should be filed with the Trial
21 Court Clerk within 80 days from the filing of the
22 notice of appeal. Court reporter also is to
23 transmit a copy of all transcripts in an electronic
24 version for this Court to be submitted to them by
25 mail. Timing for filing transcripts has already

1 been -- has already been extended. The
2 Supreme Court in their second order provided that
3 no further extensions of time should be necessary.

4 Can we verify that the transcripts have been
5 filed with the Trial Court Clerk?

6 MS. BARDING: Transcripts per the designation
7 to the court reporter have been filed with the
8 Clerk's office.

9 THE COURT: Okay. Were all -- I think it
10 also provided that exhibits should be attached or
11 exhibits should be available.

12 Are the exhibits with it?

13 MS. BARDING: Yes.

14 THE COURT: Okay. Can the State -- ma'am,
15 the Assistant Attorney General, did you have
16 something you wanted to say?

17 MS. KIRCHER: Yes, Your Honor, I'm sorry.
18 There was a motion to supplement the records with
19 the entire transcript, specifically the portions of
20 the voir dire that were -- that were cut out of the
21 record on appeal. And the Florida Supreme Court
22 did sign and issue that order yesterday, the motion
23 to supplement. So in that order yesterday, it
24 provides that the excerpt as a part of the record
25 on appeal be provided no later than October 17th of

1 this year. So that's -- that's the most updated
2 information.

3 THE COURT: Okay. You say -- I have that
4 order in front of me. You say October 17th, I
5 think it's October 7th.

6 MS. KIRCHER: Okay, I'm sorry. The
7 information that I received was October 17th. So
8 if you've got the order in front of you, Judge,
9 then that's the appropriate time.

10 THE COURT: Yeah. The order, I do have it in
11 front of me, and it's in bold and underlined. So
12 it says October -- it says October the 7th. So I
13 think we're -- okay, we'll follow up on that as
14 well as -- we'll keep that -- we'll follow up on
15 that. It says 20 -- the Supreme Court also
16 required that 20 days after the filing of the
17 transcript, the Trial Clerk Court shall file the
18 record on appeal with this Court. It should
19 include all items required by Rule 9.200 and by any
20 order issued by the Supreme Court. It gave
21 specifics as to the master index, shall be in a
22 Volume One with the individual index for the
23 remaining values -- volumes, and that the trial
24 clerk shall provide all exhibits to counsel.

25 Has this been done as well? Are we still --

1 I don't know if the deadline has been passed on
2 that.

3 MS. BARDING: Yes. This has been done.

4 THE COURT: Okay. Is there anything else
5 that we need to address that would be appropriate
6 to address at this status conference?

7 MR. MCMASTER: Nothing from the State.

8 MR. PIROLO: Judge, I'm assuming that since
9 the Attorney General's Office has requested the
10 additional transcriptions they are covering the
11 cost of it? We had requested the entire trial from
12 opening statement through closing to be
13 transcribed, and there were portions of the
14 voir dire that we deemed necessary to be
15 transcribed. And I believe those have been
16 transcribed.

17 We didn't feel that the other, you know, two
18 or three weeks worth of jury selection was needed,
19 and we didn't feel -- waste taxpayer money to do
20 that, so that's why we did not transcribe the
21 entire voir dire proceedings. So, again, I'm
22 assuming since the Attorney General's Office has
23 requested the additional transcriptions, they are
24 covering the costs.

25 THE COURT: Okay. Ms. Kircher, can you

1 address that?

2 MS. KIRCHER: Yes, Your Honor. And I do
3 apologize, I was able to make out portions of that,
4 but it was kind of fading in and out as to volume.
5 But the rule required in the original order by the
6 Florida Supreme Court was that the entire
7 transcript be provided in record on appeal. There
8 is no order or distinction for doing excerpts of
9 the trial.

10 It was our position, and then speaking with
11 appellate counsel from the public defender's
12 office, that he had been in communication with the
13 public defender's office and had, basically, let
14 them know that he needed the entire transcript to
15 make sure that he was covering all of the possible
16 appellate issues for future habeas proceedings as
17 well. And that was not able to be accomplished
18 yet, so that's why we did the motion to supplement.

19 But our position would be that the
20 transcripts and the record on appeal is the
21 responsibility of the public defender's office due
22 to the original order of the Florida Supreme Court
23 and through the designation to the Clerk. There's
24 no rule that allows for, you know, partitioning or
25 doing excerpts, as the record on appeal has to be

1 the whole thing.

2 THE COURT: Okay. Mr. Pirolo?

3 MR. PIROLO: Judge, I know under the case law
4 that we are to provide. Our obligation is to
5 designate those portions that we deem -- that would
6 be sufficient to demonstrate a possible reversible
7 error on appeal and those portions that are
8 necessary. And we are under an obligation not to
9 waste any money from, you know, public funds to
10 transcribe materials that we do not believe
11 demonstrate reversible error.

12 And I believe we've done that, we were very
13 specific during the voir dire proceedings which
14 days to have transcribed. I believe there's two or
15 three days of the actual voir dire proceedings that
16 we asked to have transcribed. And, obviously, we
17 had the entire trial, you know, transcribed from
18 opening through closing argument.

19 THE COURT: I'm just reviewing the
20 Supreme Court's order. Okay, what it appeared to
21 me that the -- it says "the complete record." It
22 would appear to me that the record is not complete
23 without the entire transcript, so I'm going to -- I
24 mean, we already entered -- the Supreme Court
25 already entered an order requiring the additional

1 transcripts of the proceedings that were not
2 provided previously to be provided, so I'm going to
3 require that the public defender pay that portion.

4 Mr. Pirollo, if you want to brief that issue
5 and provide me with case law, otherwise, I'll
6 reconsider it if that's appropriate.

7 MR. PIROLO: Okay.

8 THE COURT: Okay.

9 MR. PIROLO: Thank you.

10 THE COURT: I see a hand in the back. I
11 don't know who that person is, so I don't usually
12 take hands from the audience. So if there's
13 someone you want to talk to. I think I've got all
14 representatives here.

15 MS. BARDING: The court reporters.

16 THE COURT: Oh, that's the court reporter?
17 Okay, that would be someone appropriate for the
18 proceedings. Actually, I should have had you sit
19 up here.

20 Yes, ma'am?

21 MS. GOIN: Your Honor, I'm Carol Goin. I'm
22 the owner of Ryan Reporting. I'm actually not a
23 court reporter, but I own the firm that has
24 transcribed everything.

25 THE COURT: Yes, ma'am.

1 MR. PIROLO: We transcribed based on the
2 designation we received from the public defender.

3 THE COURT: Okay.

4 MS. GOIN: And we received the order
5 yesterday from the Supreme Court, the supplement to
6 the record. We will begin immediately transcribing
7 that.

8 THE COURT: Okay.

9 MR. PIROLO: It will be virtually impossible
10 for us to meet the October 7th deadline.

11 THE COURT: Okay.

12 MR. PIROLO: We transcribed 15 -- the
13 15 jurors that were selected, and there were over
14 200 jurors interviewed. So we have 11 days worth
15 of jury selection less 15 jurors that we need
16 transcribed. We'll do our best. We'll begin
17 immediately, but I'm not sure we can meet the
18 October 7th deadline.

19 THE COURT: Okay. Ms. Kircher, any response
20 to that? Can --

21 MS. KIRCHER: No response, Your Honor. She
22 did -- I'm not sure if it was this particular
23 Madame Court Reporter or representative, but the
24 reporting agency did reach out to me yesterday.
25 And we spoke about this issue and clarified that,

1 so I was aware that there was still substantial
2 jury selection left to transcribe. So the order
3 gives the date and we can just -- you know, they
4 can do it as fast as they can do it, but that's
5 about as fast as they can go.

6 THE COURT: Okay. Can you give me a date
7 that you think it could be provided?

8 MS. GOIN: Based on my best guesstimate, I
9 believe we can be complete by the end of October.
10 And as soon as we are complete, we will turn them
11 in. We'll send it to Kim Barding as soon as it's
12 finished, and I'll give updates to Kim Barding's
13 office as to where we stand. And we're still
14 waiting for some additional digitals. Not the jury
15 selection, but additional hearings. We should get
16 those from court admin in the next day or two. I
17 requested them yesterday evening.

18 THE COURT: I'm concerned that the end of
19 October might not be acceptable.

20 Ms. Kircher, perhaps you could advise the
21 Court what will happen if the deadline is not met.

22 MS. KIRCHER: Well, Your Honor -- and it's
23 different in every case -- but we have reached out
24 to the Florida Supreme Court Clerk and spoken with
25 her about this issue yesterday. And if it becomes

1 necessary to do a motion to extend based on
2 extenuating circumstances with the court reporter
3 actually producing the documents, that has been
4 done before. There's usually, you know, a little
5 bit of flexibility with time based on that, but we
6 can always do a motion to accept the
7 court reporter's designation on time. They do take
8 that into account. But in this particular case, I
9 couldn't advise without getting that from the
10 Clerk.

11 THE COURT: Okay. I can tell you that the
12 jury selection, I mean, it was extensive and
13 voluminous. I mean, I think it lasted two weeks,
14 so that -- that's -- it was a major part of the
15 proceeding, probably about a third of the entire
16 proceeding. So it's -- I mean --

17 MS. KIRCHER: Yes, Your Honor.

18 THE COURT: I understand if she has
19 difficulty not meeting the October 7th deadline.

20 MS. KIRCHER: Yes, Your Honor. And I have
21 read the portions of the voir dire that were
22 transcribed and notated each excerpt from that, so
23 I know that that's still an extensive amount of
24 transcription to be done.

25 THE COURT: Okay. Perhaps, based on that, it

1 might be appropriate to set another status
2 conference at the end of the month to make sure
3 that that gets done.

4 MS. KIRCHER: That would be my suggestion
5 too, Judge.

6 MS. GOIN: Thank you, Your Honor.

7 THE COURT: Thank you. I thought it would be
8 appropriate to have a court reporter present, but
9 when I didn't see anyone up here, I didn't know if
10 there was a representative from the court reporter.
11 So I appreciate you being here.

12 What I can do is set -- I'm looking at
13 October the 29th at 8:30.

14 MR. PIROLO: Judge, just for the Court to
15 know, I'm starting a three-week-long penalty phase
16 on October 27th.

17 THE COURT: Okay.

18 MR. PIROLO: In front of Judge Crawford.

19 THE COURT: You want me to try to do it
20 before that?

21 MR. PIROLO: If possible. I mean, otherwise,
22 I can try to get someone else to cover. We would
23 start October 27th with jury selection.

24 THE COURT: You want me to do it
25 October 26th, is that --

1 MR. PIROLO: That's a Sunday.

2 THE COURT: October -- I'm looking at August,
3 I'm sorry. You said you're starting October 27th?

4 MR. PIROLO: Right. With jury selection. I
5 mean, if it's at 8:30, I can let Judge Crawford
6 know. I can stop in here first. I'm sure it's not
7 going to take long, and then get back to jury
8 selection. I mean, that's fine. It will
9 be upstairs. I just wanted the Court to know where
10 I'm going to be.

11 THE COURT: Okay. Let's keep the
12 October 29th date, and if something -- if that's --
13 I think Judge Crawford will work with you. If he
14 doesn't, let me know and I'll speak with him.

15 MR. PIROLO: Okay, thank you.

16 THE COURT: Anything else by any parties who
17 are present?

18 MR. PIROLO: No, Your Honor.

19 MR. MCMASTER: No, Your Honor.

20 MR. MCBRIDE: No, Your Honor.

21 THE COURT: Okay. We'll set this for another
22 status conference for October the 29th, 2014, at
23 8:30 to check on the status of the remaining
24 transcripts from the voir dire being provided.
25 Okay, thank you all for being here, I appreciate it

1 very much. That concludes these proceedings.

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C E R T I F I C A T E

STATE OF FLORIDA)
)
COUNTY OF BREVARD)

I, JESSICA CRUZ-SEGARRA, Court Reporter and Notary Public, transcribed to the best of my ability the audio recording of the foregoing proceedings held.

Dated this 26th of September, 2014.

Jessica Cruz-Segarra
JESSICA CRUZ-SEGARRA, Notary Public
State of Florida, My Commission:
FF35359, Expires: July 11, 2017

State v Brandon Bradley

