

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

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

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

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STATE OF FLORIDA,



23131316

Plaintiff,

ORIGINAL

versus

BRANDON LEE BRADLEY

Defendant,

FILED IN T.V.L. 01
CLERK OF CIR. CT.
BREVARD CO. FL.

2014 JUL 25 A 11:46

SCOTT ELLIS

VOLUME XIII OF XV

TRANSCRIPT OF DIGITAL RECORDED JURY TRIAL,

SPENCER HEARING AND SENTENCING

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

RYAN REPORTING
REGISTERED PROFESSIONAL REPORTERS

1670 S. FISKE BOULEVARD

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Appearing for
Defendant

Brandon Lee Bradley, Defendant, present

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* * * * *

1 A But, you know, the problem is that individuals
2 that have problems and who don't have the kind of
3 structure are likely to be able to keep themselves off of,
4 you know, substances long enough to prevent an
5 exacerbation of that deficit.

6 Q Does it matter what the cause of the brain
7 damage is whether it occurs naturally in the brain or as a
8 result of traumatic brain injury in terms of the effects?
9 I mean would the effects be the same either way, there's
10 the same behavior regardless of the reason why the damage
11 got to be there?

12 A I would say that probably doesn't make a whole
13 lot of difference whether you have -- you know, what the
14 cause of the lesion is. This is an area of the brain that
15 is responsible for these type of functions and so
16 independent of whatever the cause for that lesion is it's
17 going to affect those functions that are -- that that
18 region controls or.

19 Q And so if there is this increase in a perceived
20 fear whether real or not and a decrease in ability to
21 control impulses or behavior or the response to whatever,
22 the fear or any other stimulus, would that be something
23 one would observe across the board and that would affect
24 in a global sense the person's entire life?

25 A You know, I think, you know, there's going to

1 be that tendency but that tendency is going to be affected
2 by lots of environmental factors, you know, and so, you
3 know. And also going to be affected by whether you have
4 any other substances on board, you know. I mean, you
5 know. So, if you're abstinent and you're in a stable
6 environment, although you might have a tendency to be more
7 fearful or misperceive things, it's not going to be as
8 exacerbated as if you're ingesting and in a stressful
9 environment.

10 Q If the presentation that you have with
11 Mr. Bradley of the increased fear and decreased impulse
12 control and increase in impulsivity you add to that a fear
13 whether rational or not of being shot or -- and of police
14 officers and in addition to that a consumption with
15 immeasurable amount of marijuana and Xanax in the blood at
16 the time of the shooting, would that -- what would be the
17 type of behavior that you would expect with that
18 combination?

19 A Well --

20 Q Behavior?

21 A I mean, I think that an individual with a
22 shrunken amygdala who has no circuitry for processing fear
23 malfunctioning and who has additional substances on board
24 which is likely to further exacerbate the malfunctioning
25 of the fear processing circuit is likelier to have --

1 that's probably the orbital frontal in terms of impulse
2 control is more likely to act out in an impulsive manner,
3 in an over-reactive manner to fear than someone has a
4 normal size amygdala who doesn't have any substances and
5 who has a functioning orbital frontal cortex they're going
6 to have, you know -- I mean, you have a perfect storm, a
7 combination of a variety of factors.

8 Q Now, you're not saying he's prevented in all
9 situations from controlling his behavior?

10 A No. I'm saying that the factors that you have
11 substance on board, factors such as whether you're under
12 stress or not are going to affect the behavior, you're
13 going to have a propensity, a greater probability of
14 misperceiving situations in a fearful setting but that
15 doesn't mean that, you know, you're going to be fearful
16 every moment of everyday, you know.

17 Q With this combination of brain damage and the
18 drugs and the fear of being shot and the fear of police
19 officers, can you express the behavior to be expected in
20 terms of -- how would you express it, in terms of
21 likelihood, probability or some other way?

22 A I mean, I would say that given a hypothetical
23 situation where you have an individual who has atrophied
24 amygdala and who has abnormally functioning orbital
25 frontal cortex and who has other problems of a variety of

1 substances which are going to further exacerbate the
2 malfunction of these regions, the impulse control region
3 and the fear region, I would say that more likely than not
4 you're going to have a significant overreaction to
5 misperception.

6 Q To what degree with somebody with the
7 presentation that we've been talking about that you found
8 in Mr. Bradley, to what degree would his ability to
9 conform his conduct to the requirements of law be
10 affected?

11 A I would say it would be greatly affected by
12 both the misperception and the over-amplification of fear
13 and the ability -- and the difficulty of being able to
14 regulate impulses properly. So, I think the combination
15 of the two I think would make it -- there would be
16 significant difficulty. I think more likely than not that
17 he would have significant difficulty being able to
18 regulate his actions appropriately.

19 Q So, that would be a significant impairment in
20 the ability to?

21 A Yes.

22 Q -- conform his conduct to law?

23 A Yes, in my opinion it would be a significant
24 impairment in his ability to, you know, conform his
25 behavior and conduct with the law.

1 Q I want to ask you about -- and so are your
2 opinions stated to a degree of medical certainty?

3 A Yes.

4 Q And that is based upon what?

5 A Well, it's based upon what my review of the
6 imaging data that I have available in both of the PET scan
7 that he has both a visual and statistically significant
8 decrease in the orbital frontal cortex metabolism, that he
9 has a significant abnormality in the corpus callosum
10 tractography and the factual and isotropy. He has
11 significant reduction in the hippocampus and amygdala.
12 And so those are all, you know, objective deficits on
13 medical imaging in his brain and regions that regulate
14 impulses and fear perception.

15 Q Let me take you back to the PET scan imaging
16 for a moment, just a few questions there. The
17 population -- the normative population that you were
18 talking about, now that's a group of people who you have
19 performed images on and has been determined -- well, what
20 is the -- what's the profile of the people that fit into
21 that normative database and how many are there?

22 A Well, these are individuals who have been
23 screened for major psychiatric disorders, major
24 neurological disorders who had neuro-cognitive testing and
25 so we have a group of twenty individuals.

1 Q How many?

2 A Twenty.

3 Q And what is the -- is there a limit or at least
4 a floor, a minimum number of people to fill that database
5 for it to be diagnostically useful?

6 A I would say that, you know, the expense, each
7 scan's about Three to Five Thousand Dollars, you know, so,
8 plus there are no cognitive testing and we have multiple
9 peer group articles in which you have control groups of
10 twelve, fifteen, twenty. So, I would say that the control
11 that we have is in the same order of magnitude as
12 generally acceptable scientifically, medically as I would
13 say that in general scientific medical articles have a
14 minimum number of (unintelligible) I would say ten but,
15 you know, it goes up from there to, you know.

16 Q And how can you rule out differences in the
17 quantitative measures of the corpus callosum and the
18 orbital frontal cortex of Mr. Bradley, how can you rule
19 out such factors as, oh, let's say they all -- the members
20 of the database are white or they're all older people
21 which, you know, are distinguishable from Mr. Bradley, or
22 they they're all female, I mean, how do you control for
23 those types of possible differences and rule them out as a
24 possible explanations for the measurable difference that
25 you got of Mr. -- you know, from Mr. Bradley from the

1 normative group?

2 A Well, there's no scientific (unintelligible)
3 that race makes any difference with regards to imaging.
4 We do take into exact age and gender, these are things
5 that have been shown to have some effects and we have very
6 statistical models for what we do called full variant out
7 age and gender effects and so these deficits that we're
8 seeing are independent of any age of gender effects after
9 full varying them out.

10 Q And how do you rule out -- relate back I should
11 say, the medical presentation of Mr. Bradley at the time
12 of the PET imaging which was December 23rd of last year
13 back to March 6th of 2012? In other words, what you're
14 getting is a snapshot through the PET scan imaging
15 basically, I mean figuratively speaking, of the
16 presentation of Mr. Bradley on that date which was at that
17 point a year and nine months approximately after March
18 6th --

19 A Well --

20 Q -- 2012?

21 A -- I would say unless there was some
22 significant change in his neurological or psychiatric
23 condition between March and December, it would be to a
24 reasonable medical certainty the December testing would be
25 reflective of the March (unintelligible) which is a

1 significant change in his status. Say he developed new
2 symptoms or say he had significant head trauma in between
3 then, then I don't think it would be indicative, but
4 barring any significant medical major change I think it
5 would be indicative of his brains in March.

6 Q And to what degree did you take into
7 consideration the neuropsychological testing of
8 Dr. Olander?

9 A I think that that was very significant in terms
10 of clinical correlation that there was evidence that he
11 was making a good effort so that -- it wasn't that he was
12 trying to, you know, give bad answers. I won't call it
13 effort or validity showed that he was making a good
14 effort, but even with good effort that he showed profound
15 neuropsychological testing deficits by Dr. Olander such as
16 information processing speed or other measures. I mean,
17 it was like fifth or seventh percentile which are
18 clinically significant deficits.

19 And especially, you know, in light of his
20 earlier academic testing, Dr. Olander reviewed his earlier
21 academic testing when he was in second or fourth grade. I
22 mean, he wasn't at the seventh to eighth percentile, he
23 was like at fortieth percentile. So, something happened
24 between the time he was a kid in fourth grade and the
25 testing now. I mean, something that caused a very

1 significant decline in his cognitive testing. This is
2 what we call an acquired brain injury. I mean, it wasn't
3 like he was born this way and he's always had, you know,
4 functioning at seventh to eighth percentile, something
5 shifted him from fortieth percentile down to eighth
6 percentile, you know. And so that early academic testing
7 would be -- and the fact the he had relatively lower
8 academic testing and the fact that he had very impaired
9 neuro-cognitive testing now would be consistent with the
10 fact that there's some significant events somewhere along
11 the line that dropped his cognitive functioning down. It
12 would be consistent with the kind of data that we see on
13 the imaging, that that there was some kind of significant
14 history of some head trauma at some point in time that
15 caused these kind of deficits.

16 Q Okay. You're not limiting that some incident
17 to just one, it could be more than one or cumulative?

18 A I can't say for the words cumulative or one,
19 all I can is he does show evidence of significant damage
20 in terms of the kind of imaging findings that we're
21 seeing.

22 Q Are you stating to a degree of medical
23 certainty that the neuro-imaging results and correlated
24 with the neuropsychological results indicate the presence
25 of brain damage in the corpus callosum and the orbital

1 frontal cortex of Mr. Bradley?

2 A Yes.

3 Q And that the known correlates are the behavior
4 that you described, the increased fear factor and
5 perception of fear where it may or may not exist and
6 decrease in impulse control or the ability to moderate his
7 behavior?

8 A Yes.

9 Q To a degree of medical certainty?

10 A To a degree of medical certainty, yes.

11 MR. MOORE: No further questions.

12 THE COURT: Okay. Cross examination by the
13 State.

14 CROSS EXAMINATION

15 BY MR. MCMASTER:

16 Q Good afternoon Dr. Wu.

17 A Good afternoon.

18 Q Now, it's fair to say, is it not, that not all
19 experts in your field are in agreement with your use of
20 PET scans to do a neuropsychiatric evaluation?

21 MR. MOORE: Objection. Can we approach?

22 THE COURT: Yes, you may.

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

25 MR. MOORE: Did I understand -- Mr. McMaster

1 had a little trouble getting all that, that he's
2 asking if the other -- that the field of neuro
3 scientists disagree with Dr. Wu's use of PET scans,
4 is that the question?

5 THE COURT: Yes.

6 MR. MOORE: That is inappropriate, he's using
7 hearsay to attack the qualifications of this witness.
8 I thought we dealt with that the other day with a
9 case that I offered the Court that you cannot attack
10 a witness either through hearsay or directly or
11 indirectly by his standing in the community or by
12 attacking his credentials but rather --

13 THE COURT: I thought that what you objected to
14 the other day was him questioning another expert
15 about a prior expert's expertise.

16 MR. MOORE: Well, they're asking him to
17 comment -- to testify on hearsay what other people --
18 he says that other people are saying, that's hearsay
19 number one, about his credentials and his ability to
20 use a PET scan for this use or any other use and that
21 would be -- number one, it's hearsay.

22 Number two, he's through hearsay trying to
23 introduce the medical community against Dr. Wu in his
24 methodology and he hasn't laid a predicate for that
25 number one.

1 Number two, it's hearsay and there's no way to
2 cross examine that medical community out there and
3 what in particular is the use that Mr. McMaster is
4 referring to. So, I object to the form of the
5 question as well.

6 THE COURT: Okay. Response from the State.

7 MR. MCMASTER: Judge, the witness has already
8 testified that this type of evidence is generally
9 acceptable in the scientific community, all I'm
10 trying to clarify is that not all scientists are in
11 agreement with that. (Unintelligible) that he's
12 testifying about previously that published articles
13 are highly critical of this type of association in
14 the use of PET scans.

15 MR. MOORE: Irrelevant. If the State wants to
16 introduce that they can bring those experts in and
17 let them testify and have them subject to cross
18 examination. They're trying to back door in hearsay
19 of positions of other people and we don't even know
20 what those positions are. It's unclear. It's
21 ambiguous. So, it's multiple objections that I have,
22 form of the question, hearsay, question's ambiguous,
23 it's irrelevant to what other people think about this
24 doctor.

25 THE COURT: Mr. McMaster.

1 MR. MCMASTER: Judge, he's given his opinion
2 that this is generally acceptable and I think we
3 should be able to cross examine about his knowledge
4 of the fact that there are experts who disagree with
5 him.

6 MR. MOORE: Well, that's -- judge, there are
7 always going to be experts who disagree, we've seen
8 that up to this point in this trial we've had experts
9 disagree. So, that's irrelevant. So what.

10 THE COURT: All right. I'm going to sustain
11 the objection.

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

14 BY MR. MCMASTER:

15 Q Doctor, you testified this afternoon that the
16 MRI test showed various abnormalities, is that correct,
17 and you testified that that can be attributed to possible
18 traumatic brain injury?

19 A Yes.

20 Q Or post traumatic stress syndrome?

21 A The shrinkage in the I believe the hippocampus
22 would be secondary to post traumatic stress disorder, yes.

23 Q Did you prepare a report about your reading of
24 the MRI?

25 A Yes.

1 Q Do you have a copy with you, sir?

2 A I have a digital copy on my laptop and I
3 provided a copy to Mr. Moore.

4 MR. MCMASTER: Approach the witness, Judge?

5 THE COURT: Yes, you may.

6 BY MR. MCMASTER:

7 Q Is this the report that you prepared, sir?

8 A Yes, it is.

9 Q When you prepared that report, did you not
10 attribute the cause of those things either to traumatic
11 brain injury or schizophrenia?

12 A Yes, that's correct.

13 Q That's not post traumatic stress syndrome, is
14 it?

15 A No, that's correct, post traumatic stress
16 disorder is not the same as traumatic brain injury or
17 schizophrenia.

18 Q Those are two different things?

19 A They are different in diagnosis, yes.

20 Q Can you explain why you put schizophrenia in
21 your report and you testified here today that it was
22 positive traumatic stress syndrome that could have caused
23 it?

24 A What I was referring to the DTI report more
25 specifically was the corpus callosum abnormality. The

1 corpus callosum abnormality the decrease in the factual
2 and isotropies, those red blotches, and those straws that
3 were fibers that were less thick, that is not the kind of
4 thing that you would see in post traumatic stress
5 disorder. So, that would report dealt primarily with the
6 findings in the corpus callosum which would be either
7 brain injury or schizophrenia. What I was referring to
8 for post traumatic stress disorder was an additional later
9 analysis I did on the quantitative biometrics which was
10 the amygdala or hippocampus.

11 Q Okay. If I understood your testimony
12 correctly, your position about PET scan is that it
13 captures the functioning or malfunctioning of the brain
14 itself, is that correct?

15 A Yes.

16 Q And the MRI, a normal MRI would normally
17 capture whether there are organic problems with the brain,
18 the structure of the brain itself?

19 A Well, let's see. There's a conventional MRI
20 sequences and then there's the advanced sequences.

21 Q I was going to get to the advanced one in a
22 minute.

23 A Yes.

24 Q But the regular MRI, that would basically just
25 be the hardware of the computer?

1 A Conventional MIR will basically look at the
2 shape of the brain and basically see if there's any
3 significant alterations in the shape of the brain.

4 Q And the PET scan will tell you whether there's
5 something wrong with the software that's operating on the
6 computer?

7 A The functioning, yes, that's correct.

8 Q Now, I was a little confused about the MRI DTI
9 which is the study that you had done and sent to you, is
10 that correct?

11 A Yes, that's what we call an advanced sequence.

12 Q So, does the MRI DTI check the hardware for the
13 computer or is it checking the software?

14 A It's the hardware. It's the hardware that it's
15 checking. It's checking for thea cable basically, you
16 know, like the Internet cable or phone cable that connects
17 different parts of the brain and whether those cables are
18 intact or whether there's what we call leakage or tears in
19 those cables.

20 Q So, according to the MRI DTI you did, there are
21 some abnormalities in Mr. Bradley's brain as of the date
22 of the scan at least with respect to the straws I think
23 you described?

24 A Yes, the corpus callosum tractography was kind
25 of like the straws or the fibers is not as full as a

1 normal, and then the red blotches would be like where the
2 food dye leaking out of a broken straw. I mean, in an
3 intact brain you wouldn't see any of that food dye leaking
4 out of the straw, there would be basically no red blotches
5 on there.

6 Q Now, am I correct in understanding your
7 testimony that the scans themselves only show the
8 condition of the brain on the date that the scan was
9 taken?

10 A Well, that's correct, I mean, the scans are of
11 the brain on the date it was taken.

12 Q Doesn't show you how long the condition lasted
13 or when it was first imposed upon the brain?

14 A I would say that the scan in and of itself
15 would not indicate how long it's been that way, one would
16 have to have additional information such as whether there
17 had been any change in the status of the individual or
18 whether the injury was pretty much stable in order to try
19 to infer how far back that scan would be representative of
20 the brain for.

21 Q Now, as far as you are aware, prior to March
22 6th of 2000 -- well, actually prior to October 13th of
23 2013 when the MRI DTI scan was done and December 23rd of
24 2013 when the PET scan was done, there were no previous
25 MRI studies or PET scan studies done of Mr. Bradley, is

1 that correct?

2 A Not that I'm aware of.

3 Q In long term patients who are followed by
4 physicians over a period of time there may be multiple
5 scans that are done so that they can be compared from one
6 to the other to see whether a disease is progressing or
7 has changed any, isn't that true?

8 A That is true for some cases, that's correct.

9 Q And in this particular case the only picture we
10 have of Mr. Bradley are those pictures taken on October
11 13th of 2013 and December 23rd of 2013?

12 A Those are the only ones I'm aware of, yes.

13 Q Now, is it further limited, the testing, the
14 scanning, is it further limited by the time of day that
15 the scan is done?

16 A Well, I would say the DTI and quantitative
17 biometrics is probably not affected by the time of day.

18 Q So, that one's doing more of the?

19 A More of the hardware.

20 Q Hardware?

21 A The PET scan, you know -- I mean, if you were
22 to do a PET scan in the middle of the night when someone
23 would normally be asleep, there might be some effect from
24 it being done in the middle of the night as opposed to,
25 you know, when they're normally asleep. So, that could be

1 a factor.

2 Q So, if you did the scan at 3:00 a.m. as opposed
3 to 3:00 p.m., thirty may be a total difference in the scan
4 results?

5 A That's correct. If you have someone who is
6 abnormally sleep deprived at the time of the scan and
7 because they're normally asleep at say 3:00 a.m. and we do
8 the scan at 3:00 a.m. you would see some -- you would see
9 a different pattern.

10 Q All right. Now, as I understood what you
11 testified to that the scans don't tell you the cause of
12 the malfunctioning?

13 A That's correct, the scans in and of themselves
14 don't indicate the specific cause.

15 Q You've indicated that there may be some causes
16 that could account for the changes or the abnormalities
17 that you've seen but you don't really know which
18 particular situation it was that caused the abnormality?

19 A That's correct, I can't say, you know, that,
20 you know, for a particular abnormality or that this
21 abnormality was caused by this event on this day.

22 Q All right.

23 A Without additional information.

24 Q You indicated it could possibly be traumatic
25 brain injury?

1 A Yes, I think that that's the most likely but,
2 yes.

3 Q Post traumatic stress syndrome?

4 A I think that that is also likely for some of
5 the abnormalities.

6 Q Schizophrenia.

7 A It would be consistent with schizophrenia but,
8 you know, I would say that from what I've seen of his
9 history it doesn't meet the formal criteria for
10 schizophrenia.

11 Q Could it be drugs, particularly psychotropic
12 drugs?

13 A Drugs would not cause this kind of -- the kind
14 of abnormality that we observed on the PET and DTI.

15 Q Do they cause other types of abnormalities?

16 A They can. So, for example, if you were to take
17 cocaine acutely or -- you can see an acute reduction in
18 orbital frontal metabolism, for example, and -- yeah.

19 Q All right. How about the patient's mood, would
20 their mood at the time of the taking the scan matter as to
21 whether the results are going to be different?

22 A Well, I would say that mood can have an effect.
23 If an individual is seriously depressed it can meet the
24 formal criteria for a major depressed disorder. There are
25 certain PET scan patterns that are have been noted in

1 individuals with major depressed disorders.

2 Q All right. Now, since the scans can't tell you
3 exactly what caused the abnormalities that you viewed on
4 the scans, you did request clinical type information to
5 try to find out what might have caused it?

6 A Yes, I recommended clinical correlation, yes.

7 Q Did you get Dr. Olander's reports and the
8 documentation that she obtained regarding the defendant?

9 A Yes, I did.

10 Q And you reviewed that yourself?

11 A Yes, I did.

12 Q Now, you are aware that the defendant gave the
13 history to Dr. Olander of head trauma?

14 A Yes.

15 Q On three different occasions?

16 A Yes.

17 Q I think he said at age fifteen which would be
18 about 2005 he fell off the monkey bars?

19 A Yes.

20 Q Became unconscious?

21 A Yes.

22 Q Did you find it unusual that there were no
23 records whatsoever to substantiate that claim?

24 A No, it's not uncommon actually for many head
25 traumas to be undocumented by a medical professional.

1 That's actually been noted in peer review journals that
2 many head traumas are undocumented.

3 Q Well, in this particular situation he was at
4 school, he claims to have fallen off the monkey bars, hit
5 his head and gone unconscious, isn't that the type of
6 situation where you would expect the school to call the
7 medics, take the person to the hospital, document it
8 somehow, call their lawyers?

9 A You know, I think ideally that would be true,
10 in reality unfortunately schools often times don't often,
11 you know, do things consistently.

12 Q In any event, you're not aware of any
13 documentation to verify that he in fact fell off the
14 monkey bars?

15 A I have not seen any document of that, that's
16 correct.

17 Q Now, he also gave a history to Dr. Olander of a
18 2007 motor vehicle accident?

19 A Yes.

20 Q And that -- are you aware that he's given
21 differing accounts of how exactly that accident happened?

22 A I have seen different accounts, yes.

23 Q Are you aware that the medical -- did you look
24 at the medical records that were obtained regarding the
25 motor vehicle accident?

1 A I did not review the medical records directly,
2 I just reviewed her report of the medical records.

3 Q Are you aware from her report at least that the
4 actual facts of the matter were that there was an accident
5 but that he declined medical treatment at the time and
6 didn't seek medical help for two days?

7 A I remember something to that effect in the
8 report, yes.

9 Q And he walked into the emergency room, he was
10 examined and released the same day with a diagnosis of
11 whiplash and knee sprain?

12 A Yes.

13 Q And then the third incident that he complained
14 about head trauma would be the 2009 incident where he was
15 hit by a thrown lock at a time when he was in prison?

16 A Yes.

17 Q Are you aware of any documentation at all that
18 would indicate that that in fact happened?

19 A I have not seen any written documentation of
20 that other than what I saw in the report.

21 Q So, we have him claiming to have had some type
22 of head injury on those three specific occasions?

23 A Yes.

24 Q And we only have documentation about one of
25 them which differs from his version about how it happened?

1 A Yes.

2 Q Now, are you able to say within any degree of
3 medical certainty that the monkey bar fall caused the
4 malfunctioning that was shown in the scans taken in late
5 2013?

6 A I cannot say to a degree of medical certainty
7 that the monkey bar fall was the main cause of any of
8 these abnormalities on the imaging.

9 Q How about with any degree of medical certainty
10 that the motor vehicle accident in 2007 caused the
11 abnormalities you observed on the scans taken in late
12 2013?

13 A I think that's more likely than the monkey bar
14 incident, but again, you know, I would say -- I can't
15 actually say when the accident occurred, all I can say is
16 that I can see the after math, I can say it's consistent
17 with having had some type of traumatic head injury at some
18 point in the past but -- and you know, that motor vehicle
19 accident would certainly be the type of event that could
20 account for some of these type of findings but, you know,
21 I can't say with a hundred percent certainty that was
22 definitely it.

23 Q I understand. And I take it that would also be
24 true for the incident in 2009 where he was hit in the head
25 with the lock by another inmate?

1 A Yeah, I think I would have a similar sentiment.

2 Q Can't say with any kind of degree of medical
3 certainty?

4 A I can't say with a hundred percent certainty
5 that that was the specific event that caused these
6 specific abnormalities.

7 Q Would it also be fair to say that you can't
8 tell us when the brain was actually damaged that would
9 result in the abnormalities?

10 A I can't say exactly when the damage occurred,
11 that's correct.

12 Q Now, can you tell us whether or not the
13 defendant's brain was functioning normally on March 6th of
14 2012 when he shot Deputy Pill?

15 A I can say that given the abnormalities on the
16 scan, unless there was some significant event between the
17 March date and the imaging date, that the imaging results
18 would likely be representative of his brain functioning
19 in that -- on that March date and that there would be
20 abnormal functioning of the orbital frontal cortex,
21 abnormal shrinkage of the amygdala, hippocampus, abnormal
22 corpus callosum tractography and factual and isotropy.

23 Q All right. Well, in fact, all of the opinions
24 that you expressed here today for this jury are based on
25 an assumption that those abnormalities existed in

1 Mr. Brandon Bradley's brain on March 6th of 2012 at the
2 time that he shoot Deputy Pill, isn't that correct?

3 A Well, it's based on -- I mean, it's kind of an
4 assumption that medical professionals routinely make which
5 is that unless there's some intervening history, you know,
6 the imaging, medical imaging would likely be
7 representative of an earlier, you know, moment in a
8 timeframe, would be representative of the various
9 functioning earlier unless there was some significant
10 intervening medical history?

11 Q Well, you are aware from reading all of
12 Dr. Olander's report and materials that she submitted to
13 you that prior to March 6th of 2012 the defendant never
14 reported any kind of psychological problems, isn't that
15 correct?

16 A Yes.

17 Q In fact, during that seven year period between
18 the fall off the monkey bars and the shooting of Deputy
19 Pill there's not one documented complaint of any kind of
20 psychiatric, psychological or mental health problems with
21 Mr. Bradley?

22 A I didn't see any such documentation.

23 Q In fact, when he was first checked into the
24 jail on March 6th and evaluated, did you see the jail
25 records that Dr. Olander got?

1 A No.

2 Q He denied mental health problems even at that
3 time.

4 Were you aware, doctor, that on March 6th of
5 2012 after the shooting of Deputy Pill Brandon Bradley was
6 involved in a high speed vehicle chase which ended up with
7 his vehicle crashing into a ditch landing on its side?

8 A Yes, I was aware of that.

9 Q Were you aware that the defendant was not in a
10 seatbelt at the time and was thrown around inside the
11 vehicle?

12 MR. MOORE: Objection, that assumes facts not
13 in evidence. May 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 THE COURT: Are you aware that, what was the
18 last part?

19 MR. MOORE: The defendant was not in his
20 seatbelt and was thrown around inside the car,
21 there's been no testimony of that. That's -- I don't
22 know where that's coming from, that's just an out of
23 the blue but there's certainly not in facts in this
24 case which have established anything like that.

25 MR. MCMASTER: The first officers on the scene

1 when they got there they were looking the windshield
2 trying to find him, he was couched down in the bottom
3 of the backseat at the top of the vehicle looking out
4 the front windshield.

5 MR. LANNING: There's been no testimony --

6 MR. MCMASTER: Being restrained by a seatbelt.

7 MR. MOORE: That was after the accident.

8 MR. LANNING: There's been no testimony to
9 that. No one testified to those facts.

10 MR. MOORE: I mean he could have just like
11 people do when they're in a wreck they're going to
12 undo their seatbelts if they have their seatbelts on,
13 but you can't presume anything one way or the other
14 because an officer may or may not have seen -- at
15 some point after the accident he may have not have
16 seen Mr. Bradley strapped in but there's -- the
17 specific testimony was assume the fact that
18 Mr. Bradley did not have his seatbelt on and was
19 thrown around inside the car at the time of the
20 accident and that has not been established. So,
21 that's hypothetical based on facts which have not
22 been presented in evidence.

23 THE COURT: Unless I missed it, I don't recall
24 the specifics. I mean, you can come to that
25 assumption but I don't recall as that specific. So,

1 I'm going to sustain the objection.

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

4 BY MR. MCMASTER:

5 Q Doctor, you are aware that Mr. Bradley was in a
6 motor vehicle accident on March 6th of 2012 after the
7 shooting of Deputy Pill?

8 A Yes.

9 Q In fact, it took the officers some period of
10 time to get Mr. Bradley out of the vehicle?

11 A I was not aware of the specific duration of
12 time it took for them to get him out of the vehicle.

13 Q Were you aware from Dr. Olander's records that
14 she got from the Polk County Jail that he in fact had a
15 fractured hand from the collision and had to be treated at
16 the jail for?

17 A I don't recall seeing that specific fracture of
18 the hand.

19 Q Are you aware from the jail records at the Polk
20 Institute, the Seminole County Jail, that on September
21 12th Mr. Bradley was placed on suicide prevention because
22 he had threatened to harm himself and he reported that
23 he's now hearing voices?

24 A Yes.

25 Q But he declined any kind of medication at that

1 time?

2 A Yes.

3 Q And he had not been on medication up to that
4 point, is that correct?

5 A That's my recollection.

6 Q Are you aware that on December 13th of 2012,
7 and we're talking nine months after he was arrested for
8 the shooting of Deputy Pill, he again is complaining to
9 the jail folks about hearing voices and is now requesting
10 medication?

11 A Yes.

12 Q You're aware that he was placed on Risperidone
13 and Doxepin?

14 A Yes.

15 Q Those are antipsychotic medications?

16 A And antidepressants.

17 Q And antidepressants.

18 Now, Dr. Olander had her first interview with
19 Mr. Bradley on March 18th of 2013, this is after he's now
20 starting to complain about psychiatric problems, is that
21 correct?

22 A Yes.

23 Q And this is the first time he's ever complained
24 to anybody about psychiatric problems?

25 MR. MOORE: Objection. I mean, how could this

1 witness know that.

2 BY MR. MCMASTER:

3 Q To your knowledge?

4 THE COURT: Sustained. Rephrase the question.

5 BY MR. MOORE:

6 Q To your knowledge, is this the first time that
7 anybody -- that Mr. Bradley has ever complained to anybody
8 about psychiatric problems?

9 A I've not seen any prior documentation of any
10 prior complaints.

11 Q There was a second interview -- actually after
12 that first interview the first scan was done, that's
13 October 13th of 2013?

14 A Yes.

15 Q And then there was a second interview with
16 Dr. Olander November the 4th on 2014?

17 A Yes.

18 Q And then the PET scan was done on December 23rd
19 of 2013?

20 A Yes.

21 Q So, the scans are done, what, almost two years
22 after the shooting incident?

23 A Yes.

24 Q And during Mr. Bradley's entire lifetime the
25 only time that he ever complains about psychiatric

1 problems where it's documented is approximately one month,
2 I'm sorry, one year before the first scan was done?

3 MR. MOORE: Your Honor, predicate. This
4 witness can't address what has happened to
5 Mr. Bradley at a point in time. This witness cannot
6 answer questions like that.

7 THE COURT: Okay. I'll sustain as to the form
8 of the question.

9 BY MR. MCMASTER:

10 Q Now, doctor, it's true, is it not, that not
11 every person who shows an abnormality like the ones that
12 you had observed in the scans for Mr. Bradley has either
13 killed someone or is going out to kill somebody?

14 A That is correct.

15 Q And in fact, there are lots of folks who would
16 show abnormal scans that have absolutely no psychiatric or
17 psychological problems?

18 A I think it would be unlikely that an individual
19 with these type of imaging abnormalities would have no
20 psychiatric symptoms.

21 Q Well, you're aware of Professor James Fallon
22 from the University of California Irvine, are you not?

23 A Yes.

24 Q He's a professor there in the psychiatric
25 department? Psychiatry?

1 A I think he's actually in (unintelligible), he
2 has a cross section in psychiatry.

3 Q Are you aware that he in fact had a PET scan
4 done of himself?

5 A Yes.

6 Q And it turns out --

7 MR. MOORE: Objection, hearsay. This is
8 improper impeachment.

9 THE COURT: Okay. We can have a bench
10 conference.

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

13 THE COURT: Mr. McMaster, if you could tell me
14 where you're going.

15 MR. MCMASTER: Dr. Fallon did a PET scan study
16 of himself as part of a Alzheimer's group study, it
17 turns out -- he does the same thing that Dr. Wu does,
18 he evaluates the studies and tries to associate those
19 with certain types of mental illnesses and he picked
20 out his own scan as he was looking through the stack
21 as one showing great abnormalities in fact that would
22 be entirely consistent with a total psychopath and
23 yet he is crime free, found it fascinating to write a
24 book about it.

25 MR. MOORE: Well, I would point out that a

1 proper form of impeachment with an article or a
2 writing would be to produce -- first disclose it to
3 the other side, which the State hasn't done, and
4 second then to -- once that's been done, then to show
5 the article or at least read from the article and
6 identify the article or whatever the writing is to
7 the witness. Number one, we have -- the State has
8 not disclosed any impeaching information, anything
9 like this writing that Mr. McMaster is referring to
10 and number two, he's going about it the wrong way
11 which I assert he cannot do because he hasn't
12 complied with the rules of disclosure. If there's
13 any document or writing, 320, I have to look that up,
14 says if the State -- or either side intends to use
15 any writing that they must be disclosed to the other
16 side in a timely fashion and there's been no
17 disclosure of anything like that.

18 THE COURT: Mr. McMaster.

19 MR. MCMASTER: Judge, it's not impeaching
20 (unintelligible). He's admitted that he's aware of
21 the situation with Dr. Fallon and all I'm trying to
22 do is reinforce the point that there can be abnormal
23 scans and it doesn't relate whatsoever to the
24 behavior exhibited by the person whose scan it is.

25 MR. MOORE: If he's not impeaching him, what's

1 he trying to do? He's trying to show that he's wrong
2 with some other I don't know what it is.

3 THE COURT: Is that something that's recognized
4 in the field of their practice?

5 MR. MCMASTER: What, that not all scans -- not
6 every scan --

7 THE COURT: No, that what you're referring to,
8 that study by the other doctor.

9 MR. MCMASTER: It's a study and he's aware of
10 it.

11 MR. MOORE: Which hasn't been disclosed to me.

12 THE COURT: I'm not sure if it has to be
13 disclosed.

14 MR. MOORE: Let me get my book.

15 THE COURT: This is cross examination.

16 MR. BROWN: He's talked about the number of PET
17 scans that he's reviewed, he's an expert, he's talked
18 about thousands that he's reviewed, this happens to
19 be one (unintelligible) that's a colleague of his
20 we're asking him about the particular PET scan that
21 he's looked at he's seen. He's talked about
22 thousands.

23 MR. MOORE: Let's just skip right over the
24 rule. Let's not skip over the rules of criminal
25 procedure, they're required disclosure of a writing

1 to us.

2 THE COURT: Show me the rule.

3 MR. MOORE: Judge, can we hold off on the
4 argument until I?

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

7 MR. MOORE: Let's see. 90.706.

8 THE COURT: What are you doing, 90?

9 MR. MOORE: 90.706 starting --

10 THE COURT: You said rule.

11 MR. MOORE: Well, I'm getting there. It
12 involves a rule too, Judge. 90.707, the use of
13 authoritative literature for use in cross
14 examination.

15 THE COURT: 90.706?

16 MR. MOORE: Yes, ma'am.

17 THE COURT: Okay.

18 MR. MOORE: Okay. First of all, statements of
19 facts or opinions on a subject or science, art or
20 specialized knowledge contained in a published
21 treatise, periodical, book, dissertation, pamphlet or
22 other writing may be used in cross examination of an
23 expert witness if expert witness recognizes the
24 author of the treatise, periodical, book,
25 dissertation, pamphlet or other writing to be

1 authoritative, or notwithstanding non-recognition by
2 the expert the trial court finds the author of the
3 treatise to be authoritative which neither step has
4 been taken by the Court of by --

5 THE COURT: He said he recognized the name.

6 MR. MOORE: That's not the same as finding him
7 authoritative. There's this word in there, it says
8 authoritative.

9 THE COURT: He says -- all it says is
10 recognizes the author.

11 MR. MOORE: As authoritative. To be
12 authoritative. The author of the pamphlet and other
13 writing to be authoritative or not by the witness or
14 notwithstanding the court can make a finding of
15 authoritativeness. That's the first objection. They
16 haven't done that.

17 And 3220 Bravo K, that is 1K, the State must
18 disclose any kind of papers or objects that the
19 prosecuting attorney intends to use in the hearing or
20 trial and that were not obtained from or did not
21 belong to the defendant and that's what this book is
22 to let us know in advance.

23 THE COURT: Say the second point again.

24 MR. MOORE: Yes, ma'am. It's 3220 paren 1
25 paren K. Within fifteen days after service of the

1 notice of discovery --

2 THE COURT: 3220 what?

3 MR. MOORE: 3220 -- oh, B as in Boy (1)(K) as
4 in Kilo. The state is obligated to turn over,
5 disclose pretrial any tangible paper or objects that
6 the prosecuting attorney intends to use in the
7 hearing or trial were not obtained from and that did
8 not belong to the defendant. So, you know, we've got
9 the right to be put on notice and be prepared to --
10 if they're going to use -- 90.706 I think I said. If
11 they're going to do that, then they first of all have
12 to disclose it to us and if they've disclosed it to
13 use, which they have not, then they are required to
14 either have the court or this witness establish the
15 authoritativeness of the treatise or book or the
16 author.

17 MR. MCMASTER: We'll make it easy, Judge, the
18 State doesn't intend to use the book.

19 MR. MOORE: Well, they're using it right now to
20 try to impeach this witness no matter what they call
21 it.

22 THE COURT: I'm going to overrule the objection
23 as to discovery, but I need more of a foundation. He
24 said he recognizes the author but the second part is
25 to be authoritative and relevant to the subject

1 matter.

2 MR. MCMASTER: I wasn't even going into that,
3 Judge. I'm asking something very simple. First of
4 all, is he aware that his colleague had a PET scan
5 done which he said yes, he's aware of that. He's
6 aware that it shows an abnormal brain. He hasn't
7 said yes, he's aware of that. And three, that the
8 doctor hasn't exhibited any type of abnormal behavior
9 that would normally be associated with that type of
10 abnormal scan.

11 MR. MOORE: How is that not hearsay? I mean,
12 suppose he has heard it. I mean, the only way he
13 could hear it is what some out of court declarant is
14 claiming and if they're trying to use this out of
15 court declaration without calling that witness and
16 have that witness subject to cross examination. It's
17 also a confrontation violation under Crawford.

18 MR. BROWN: It's not hearsay, it's part of his
19 ability to be an expert. Most of what an expert has
20 learned come from out of court sources because that's
21 how they learn.

22 MR. MOORE: Then they can --

23 MR. BROWN: It's one of the PET scans that he's
24 reviewed, we ought to be able -- they brought up the
25 fact that he's reviewed thousands of PET scans, we're

1 asking about a particular one he's looked at.

2 MR. MOORE: But he didn't do it. Somebody else
3 out of court did it and obtained some results and has
4 an opinion about it and they're trying to introduce
5 that opinion through this witness.

6 THE COURT: I've heard all the arguments.
7 Okay. I'm going to overrule the objection. I'm
8 going to allow him to answer. Thank you.

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

11 BY MR. MCMASTER:

12 Q Dr. Wu, did you ever actually look at
13 Dr. Fallon's PET scan yourself?

14 A Yes, I have.

15 Q Do you agree with Dr. Fallon that it does show
16 abnormal?

17 A Yes, I would agree that he has abnormal low
18 orbital frontal cortical metabolism.

19 Q And like many others, in fact Dr. Fallon really
20 has not exhibited any of the types of behaviors --

21 MR. MOORE: Objection, Your Honor, that assumes
22 facts not in evidence.

23 THE COURT: I'll sustain as to the form of the
24 question.

25

1 BY MR. MCMASTER:

2 Q To your knowledge, has Dr. Fallen engaged in
3 any criminal behavior?

4 A I have no knowledge of what behavior criminal
5 or he may have engaged in. I mean.

6 Q Dr. Wu, isn't it true that a person who suffers
7 from impulse control problems, once they act on those
8 impulses in say a criminal fashion, they would normally
9 show overwhelming remorse for what they did?

10 A No, I don't think that's necessarily true. I
11 think that's true for some individuals but not for all
12 individuals.

13 Q Okay. Some people do, some people don't?

14 A Yes.

15 Q Are you aware of Mr. Bradley's reaction to the
16 shooting of Deputy Pill at least as reflected in his
17 interview?

18 MR. LANNING: Objection, Your Honor.

19 THE COURT: Bench conference.

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

22 MR. LANNING: Now they're trying to inject lack
23 of remorse and we move for a mistrial.

24 MR. MOORE: That's not an aggravator, that is
25 strictly prohibited by every court up to and most

1 importantly the Florida Supreme Court. Lack of
2 remorse is not an aggravating circumstance. It's not
3 relevant and they're pushing it right in and putting
4 it in front of jury when it's absolutely prohibited.

5 THE COURT: Okay. I didn't hear what Mr. --
6 the rest of what Mr. McMaster was going to say. I
7 assume you all think you know where he's going of, I
8 have to -- he has to clarify that for me.

9 MR. MOORE: Well, here are the two pieces that
10 the jury has heard because I heard him that isn't it
11 true that people with brain injuries show lack of
12 remorse, and then did you view the videotape of
13 Mr. Bradley, or are you aware of what's in the
14 videotape that -- Mr. Bradley's confession. It makes
15 reference to Mr. Bradley and remorse and then it
16 makes reference to a DVD and the obvious comparison
17 is that Mr. Bradley is not exhibiting remorse, that's
18 the point that the State's trying to get out through
19 this witness. That's absolutely prohibited.

20 THE COURT: Okay. That's what you say his
21 point is, I never heard the rest of where he was
22 going. So, Mr. McMaster.

23 MR. MCMASTER: I think he has it backwards.
24 The actual question is isn't it a fact that people
25 who do suffer impulse control problems generally

1 after they do something say perform an criminal act
2 would show overwhelming remorse that they did and his
3 response is some do and some don't and I then asked
4 him if he was aware of what Mr. Bradley's reaction
5 was to the killing or the shooting of Deputy Pill.

6 MR. MOORE: And that --

7 MR. MCMASTER: As reflected in his statement.

8 MR. MOORE: And that underscores a lack of
9 remorse because I think the State is going to leave
10 them with the inference. Because the jury saw his
11 reaction, he wasn't crying, he wasn't what we would
12 classically call --

13 THE COURT: So, what happens after that?

14 MR. MCMASTER: The argument is that if he's not
15 exhibiting the factor that individuals with impulse
16 control problems would have, then he's not suffering
17 from impulse control.

18 MR. MOORE: He's already answered the question,
19 he said some do, some don't. So, for the State now
20 to go further in light of that context and try to
21 establish that Mr. Bradley doesn't fit a profile
22 because he didn't have any remorse is exactly
23 prohibited from the Florida Supreme Court. They can
24 not get into the absence of remorse.

25 THE COURT: Can they get into the -- I'm asking

1 this of the State. Can you get into the lack of
2 remorse with regard to other issues? With regard to
3 impulse control.

4 MR. MOORE: They're into it. They're into up
5 to their neck.

6 THE COURT: With all due respect, you all
7 brought up the impulse control. So, if impulse
8 control, a symptom of that is overwhelming remorse.

9 MR. MOORE: The Court can also do a 90.403
10 balancing if it's more prejudicial than probative.
11 In this case it obviously is. I mean, if there's any
12 probative impact of it, if there is at all, it's
13 overruled by the Florida Supreme Court's ruling that
14 the state cannot offer any evidence for any reason of
15 impulse control. It's strictly prohibited and if the
16 State tries to do it, it's a mistrial. So, if the
17 Court thinks there's any probative value, and I'm not
18 saying there is, I think there's not, but there's
19 highly prejudicial value, that outweighs the
20 probative and under 90.403 it should say out. It
21 should be prohibited.

22 THE COURT: Response from the State.

23 MR. MCMASTER: Thank you. I'll move on.

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

1 BY MR. MCMASTER:

2 Q Dr. Wu, you testify in criminal cases, do you
3 not sir?

4 A Yes.

5 Q On how many occasions have you testified in
6 criminal cases?

7 A I'm not sure the exact number, I would say it's
8 probably been over thirty or forty.

9 Q How often a year do you testify?

10 A I think it varies, I would say maybe on average
11 once every couple months.

12 Q And doctor, isn't it true that every time that
13 you have testified in a criminal case you have been called
14 by the defendant?

15 A Yes.

16 MR. MCMASTER: No further questions.

17 THE COURT: Okay. Redirect on behalf of the
18 Defense.

19 REDIRECT EXAMINATION

20 BY MR. MOORE:

21 Q Doctor, you're aware that the State represented
22 by the prosecutors represent the people of Florida?

23 A Yes.

24 Q If you were called by the state, who would you
25 PET scan?

1 A If I was called by the State to do a PET scan
2 would I do a PET scan?

3 Q No, I'm saying, you know, the State has pointed
4 out that you have only been -- never been called by the
5 state in all those their or forty times by prosecutors.
6 Well, if the prosecutors call you to do a PET scan, who
7 are you going to PET scan? Who's their client that you're
8 going to PET scan?

9 A I -- I'm not sure.

10 Q Well -- okay. I mean, can you conceive of
11 who -- since they don't represent anybody but they
12 represent the government, would there be anybody to PET
13 scan? Would there be any reason for the government to
14 call you?

15 A I guess not. I mean.

16 Q Okay. Are you aware of the intimate aspects of
17 Professor Fallon's life?

18 A No.

19 Q Obvious deficit frontal lobe has affected his
20 life in any regard?

21 A I don't know the intimate details of his life,
22 I know that he has written a book about this and he has
23 talked about, well, how he thinks the reason why he
24 haven't acted out in a criminal manner is because he's had
25 a very different environment, a very loving supportive

1 environment. I think his main book was that even if yo
2 have a bad brain, if you grow up in a very loving
3 environment, it can make a difference and so I think
4 that's his main emphasis of his book as I understand it.

5 Q So, perhaps if one grew up in an environment
6 where there was an abusive stepdad who beat the kids
7 including the particular person with the brain damage,
8 then one might expect a different way of life for that
9 person?

10 A I think that would be one of the other messages
11 from Jim Fallon's book is that if you have a bad brain and
12 you grow up in a bad environment, you know, it's like you
13 have two strikes against you instead of one strike. He
14 had one strike but the other strike went well. He said he
15 had extraordinary support of a loving family and he thinks
16 that that made a huge difference and that's why he thinks
17 he hasn't acted out at all. So, the book that he's
18 written. But I think he would be the first to admit that
19 if you have a bad brain and you grow up in abusive
20 environment you're much more likely to act out.

21 Q So, having good parents, that would be part of
22 that nurturing upbringing you're talking about?

23 A I think he would say that would be absolutely
24 critical, yes.

25 Q Vigilant parents that keep you from using

1 drugs, keep you off the streets?

2 A Yes.

3 Q When you're a twelve year old boy?

4 A Yes, I think all of this would be part -- I
5 think it would be consistent with what's the gist of his
6 book is that a bad brain is a strike against you but a
7 loving nurturing environment can protect you from bad
8 brain.

9 Q Would people who have mental health issues, is
10 it unheard of in the annals of psychology and psychiatry
11 that they have -- may come to the attention of a
12 psychiatrist without any reported history ever, is that
13 unusual?

14 A Well -- can you repeat the question?

15 Q Yeah. If a person doesn't present himself or
16 herself as having mental health issues, is it -- is it
17 always a -- would you be surprised that that person has
18 not reported such problems before?

19 A It's not uncommon for an individual who reports
20 to not have previously reported mental health problems. I
21 mean, especially -- we do initial intakes all the time and
22 people come in for various mental problems and they had
23 never previously seen a psychiatrist, seen a counselor
24 before. So, that's not uncommon.

25 Q You were asked about whether -- let's see.

1 About the Polk County Jail medical records of Mr. Bradley.
2 Are you aware of anything in those records, do you have
3 any knowledge, of Mr. Bradley having suffered any head
4 injury from the time that he was taken into custody in
5 this case?

6 A I have not personally reviewed the records,
7 I've seen Dr. Olander's review and I think she comments on
8 some reports of his hearing auditory hallucinations at
9 various times.

10 Q So, you've reviewed the records?

11 A Right, but I don't think I saw any note in her
12 review of the prison records that there was any history of
13 significant head trauma.

14 Q So, if there's an absence of head injury in
15 records like from jail records, does that -- would that be
16 an indication one way or the other whether the person had
17 a head injury?

18 A I think it would more likely than not an
19 individual would not have had a head injury if they were
20 in an environment such as a prison and they're in a
21 closely supervised setting.

22 Q Do you think it's always going to be brought to
23 the attention of the authorities if somebody gets a head
24 injury? Of course, it depends on the severity but.

25 A Yeah, I think it depends, yeah, if it's severe

1 it would probably likely draw the attention of the
2 authorities.

3 Q And you were asked if you can or cannot state
4 to a degree of medical certainty a cause of the brain
5 damage that you saw, does it matter what the cause is?

6 A No, I don't think it really matters what the
7 cause is. I mean, it's there.

8 Q The account that you're aware of the automobile
9 accident that Mr. Bradley was in, you're aware that
10 although there were different statements, I mean, is clear
11 to you that Mr. Bradley provided all the information in
12 those varying accounts?

13 A Yes.

14 Q It is clear that Mr. Bradley was the source of
15 that information?

16 A Oh, no, I'm not sure. I'm not sure.

17 Q Okay. The medical records that were referenced
18 in Dr. Olander's report as Mr. McMaster pointed out there
19 were some variations.

20 A Yes.

21 Q As to an automobile accident in 2008.

22 A Yes.

23 Q Are you -- are you -- do you know for a fact
24 that Mr. Bradley was the one who provided all of those
25 accounts of what happened?

1 A No, I don't know for a fact.

2 Q And are you aware also that with respect to
3 that automobile accident he hit his head and possibly lost
4 consciousness?

5 A That -- I believe that was indicated, yes.

6 MR. MOORE: No further questions.

7 THE COURT: Okay. Recross on behalf of the
8 State.

9 MR. MCMASTER: Nothing further, Judge.

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 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 MR. MOORE: All of my witnesses that were
19 coming this afternoon will be here tomorrow. So, we
20 don't have any further witnesses right now.

21 MR. BROWN: Does this mean we will not be
22 leaving early tomorrow?

23 MR. MOORE: Do what?

24 MR. BROWN: Does this mean we're not leaving
25 early?

1 THE COURT: Does this mean we're not leaving
2 early tomorrow?

3 MR. MOORE: Well, not as early as we are today.

4 THE COURT: Do you have anyone here?

5 MR. MOORE: No, my two experts are available
6 only tomorrow and they'll be here first thing in the
7 morning and then I've got two, three, maybe four will
8 not be lengthy witnesses but they're not -- because
9 they're not experts and so we probably will be
10 leaving early tomorrow and then we will be -- let's
11 see. Olander is testifying tomorrow. So, we will
12 rest after that?

13 THE COURT: You have some family members,
14 they're not available today?

15 MR. MOORE: Well, we make some decisions about
16 who appears when in the lineup and so -- I mean, so
17 for that -- but with respect to that they will be
18 appearing tomorrow but -- and we'll be resting after
19 that tomorrow.

20 MR. BROWN: We're good with resting and going
21 to arguments.

22 THE COURT: You're good with what?

23 MR. BROWN: We're good with both sides resting
24 and doing arguments in five minutes.

25 MR. MOORE: Why don't we just go to happy hour

1 and skip all that.

2 THE COURT: Okay. All right. Thank you.

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

5 THE COURT: Okay. Then we're going to recess
6 for today. During this recess you must continue to
7 abide by your rules governing your service as a
8 juror. Specifically, do not discuss this case among
9 yourselves or with anyone else or allow anyone to
10 discuss it in your presence. Do not -- avoid reading
11 newspaper headlines and/or articles about this case.
12 Avoid seeing or hearing television, radio or Internet
13 comments about this case. Do not conduct any
14 independent research.

15 Now, witnesses available, are they going to be
16 here at 8:30 or 9:00? I didn't ask you that. If I
17 say 8:30, are we good or did you tell them 9:00?

18 MR. MOORE: Well, I think 9:00.

19 THE COURT: Okay. I didn't want you to have to
20 wait. So, we'll do it at 9:00 a.m. We'll have you
21 come back tomorrow morning. Report to the jury
22 assembly room at 9:00 a.m. So, court will be in
23 recess until 9:00 a.m. tomorrow. Okay. Thank you.

24 (Thereupon, the jury was escorted out of the
25 courtroom by the court deputy and the proceedings were had

1 as follows:)

2 THE COURT: Okay. Please be seated.

3 Mr. Moore, would this be an appropriate time to talk
4 about whether the defendant intends to testify in the
5 penalty phase or do you want me to wait?

6 MR. MOORE: He will not be testifying. I need
7 to talk to him.

8 MR. LANNING: Judge, can we just wait?

9 THE COURT: Okay. That's what I asked. I'll
10 be happy to wait until tomorrow, but at some point I
11 have to address that. The jury is gone so I thought
12 we'd utilize this time for something but. Anything
13 we need to address on behalf of the State?

14 MR. BROWN: No, Your Honor.

15 THE COURT: Anything we need to address on
16 behalf of the Defense?

17 MR. MOORE: No.

18 THE COURT: Okay. So, we'll be in recess until
19 9:00 a.m. tomorrow morning. Okay. Thank you.

20 (Thereupon, court was in recess for the day
21 4/3/2014. Thereafter, court was reconvened on 4/4/2014
22 and the proceedings were had as follows:)

23 THE COURT: Please be seated. Okay. We can
24 bring Mr. Bradley into the courtroom.

25 (Thereupon, the defendant was escorted into the

1 court room by the court deputy.)

2 THE COURT: Okay. I have one matter I want to
3 address before we start. Yesterday the Defense
4 introduced Defendant's Exhibits Number 4 which is the
5 power point presentation of Dr. Wu's testimony.
6 There's other stuff on here and I'm not sure he'd
7 want this to be -- it's not like -- there's some --
8 there's a picture of a family wedding, there's some
9 other cases. So, you know, I think because this --
10 obviously this case is going to go up on appeal, this
11 is going to be part of the public record.

12 MR. MOORE: I have a suggestion. I have
13 downloaded and printed the presentation. So, I mean
14 that's what -- I don't know how he did that but it's
15 already in.

16 MR. PIROLO: I tried to download -- I tried to
17 download (unintelligible) and burn it on to a CD or I
18 can download the stuff that we wouldn't want, the
19 personal stuff and e-mail it to Dr. Wu and erase the
20 portions that we don't want and just keep the
21 presentation. I mean, I can do --

22 THE COURT: Any preference by the State?

23 MR. BROWN: Judge, I would suggest downloading
24 what was used on to a CD or DVD and substituting that
25 and removing that item from evidence.

1 THE COURT: Okay. I'm going to keep this here
2 for now. If you need it, let us know.

3 MR. PIROLO: I will try to do it on our
4 computers. If it doesn't allow me to do it, I may
5 have to go to the office and do it. I just want to
6 make sure -- let's try to do it here first.

7 THE COURT: Okay. I just wanted to bring that
8 to your attention. My staff attorney says she can do
9 it.

10 MR. PIROLO: Okay. Do you have a blank CD?

11 THE COURT: Okay. Okay. So, we'll work on
12 that, get that little issue resolved. Any other
13 issues?

14 MR. BROWN: Judge, the Defense has a witness
15 here, Ron McAndrew, that's not on the list that was
16 read to the jury. We are objecting to him as
17 testifying. He was not -- he is a -- what he lists
18 himself as is a prison consultant who I believe he's
19 simply here to testify about what life will be like
20 in prison and life in prison. Our position is that's
21 not relevant. He hasn't examined the defendant in
22 any way and he's not qualified to examine the
23 defendant in any way, but what life may exist for him
24 in the future be it either if he's on general
25 population on life in prison or on death row is not

1 relevant, it is not a mitigator and it ought not to
2 be allowed.

3 THE COURT: What's his name?

4 MR. BROWN: Ron McAndrew.

5 THE COURT: Okay. Response from the Defense.

6 MR. MOORE: Your Honor, Mr. McAndrew has
7 qualified and testified over fifty times not only for
8 the twenty states as an expert in prison and jail
9 issues, he has served a variety of positions in
10 Florida Department of Corrections, including but not
11 limited to, being a warden four times, including
12 working in the Florida State Prison, and has hands on
13 experience over that twenty-three year period of time
14 both in open population and on death row and he would
15 be offering to testify about the conditions of the
16 prison, the conditions of death row, classification
17 conditions and what type of condition classification
18 profile Mr. Bradley would fit, where he is likely to
19 go, what his -- likelihood of his adjusting to prison
20 is, you know, just profile about all that's been
21 presented in this trial of the brain damage, the
22 mental health issues, his size, what efforts would be
23 made to protect him and how and Mr. McAndrew has
24 testified to these things all over the country. He
25 is here, he's prepared.

1 We disclosed him to the State in January,
2 January 1st, and the State didn't inquire about who
3 he was. They didn't seem to take a deposition. You
4 know, there's been a flood of discovery back and
5 forth but still we get witness lists and when the
6 State give them we scrutinize them, we want to know
7 who that person is and prepare to meet their
8 testimony. So, Mr. McAndrew is here to testify about
9 that.

10 There's no case law saying yes or no and it has
11 to do with the mitigation and the circumstances of
12 the case but more importantly, more significant for
13 the purpose that we're offering him for is to inform
14 the jury about the sentence, what life without parole
15 means. It means nothing. They're being asked to
16 choose between two sentencing, they don't know what
17 life without parole sentence means so how can they
18 make an informed decision. It doesn't have to be
19 mitigation, just the circumstances of the case but it
20 doesn't have to fit in that category either. The
21 jury has to make a decision, an informed decision
22 about life and death issue and if they don't know
23 about the life part of then how can they make that
24 decision, how can they make a truly informed
25 intelligent decision about it.

1 THE COURT: Has he testified in state court in
2 Florida on this particular issue?

3 MR. MOORE: About -- how many times,
4 Mr. McAndrew?

5 THE COURT: In a death penalty case.

6 MR. MCANDREW: Close to a dozen.

7 MR. MOORE: And I've had other experts who are
8 disqualifying and testify on that issue and this
9 circumstance, the fact that (unintelligible). So,
10 there's no legal precedent, there's nothing to say
11 that it can't come in, there's nothing to say that it
12 stays out. It is relevant, it's essential, I think.
13 I mean, it's obvious at least to me that if the jury
14 doesn't know about what the two sentences are they
15 have to choose from, then they need to be informed
16 and Mr. McAndrew has been qualified in many courts
17 fifty times have recognized in qualifying him and
18 he's allowed to testify about this.

19 THE COURT: Okay. Response from the State.

20 MR. BROWN: First of all, testifying fifty
21 times as a consultant in civil cases, lawsuits like
22 that is a whole different nature. What they're
23 asking for him to do is come in and start with the
24 speculative on where he thinks the defendant may be
25 classified, what he may end up doing in the future

1 and what the Department of Corrections may do which
2 is pure and utter speculation at this point. He
3 doesn't know, he's not with the Department of
4 Corrections at this point. Nobody knows what's going
5 to happen.

6 Second, the definition of a mitigator does not
7 include speculating into the future of what life may
8 be like for him in the future, it's the defendant's
9 character, background, life history, things of that
10 nature. Just as we can't come in and argue what his
11 future crime rate may be, they can't come in and
12 argue this is what life for him will be in the
13 future.

14 On the same token, they can come in and say we
15 want an expert to come in and give a blow by blow
16 description of if he's put to death what that's going
17 to be like. That clearly is not a mitigator.
18 Neither one would be a mitigator. This is nothing
19 but to try to confuse the jury, try to gain sympathy.
20 It doesn't meet the definition of a mitigator. If I
21 got to the jury instructions, Florida Statute, it is
22 not mitigation.

23 MR. MOORE: We're not offering it strictly as
24 mitigation. He's not being offered as a consultant,
25 he's an expert witness in prison issues and we're

1 not -- he's not going to be talking about death, he's
2 not gong to be talking about the execution process.

3 THE COURT: Is there any case law one way or
4 another with regard to this?

5 MR. MOORE: There is none. No, there isn't. I
6 mean if he had never qualified as an expert I would
7 be concerned but he has so. I've heard of other
8 courts that have recognized and permitted him to
9 testify, then it's not without precedence. It hasn't
10 gotten to the appellate level. May be it could be
11 allowed in testimony. Then, you know, the State's --
12 you know, there's no evidence I suppose for the state
13 to appeal that, but it hasn't -- it's not an issue
14 that's made up to the appellate level. So, I would
15 have to presume that it's not deemed signature at the
16 appellate level to give it a placement in an opinion.

17 The point is, the man is qualified as an
18 expert, not a consultant. He may be a consultant at
19 this point but he worked for many years in the prison
20 system and that's how he got to be classified as an
21 expert.

22 MR. BROWN: Judge, if it's not a mitigator,
23 it's not relevant. It clearly doesn't make it as a
24 mitigator. It doesn't in any way, shape or form no
25 matter how far they want to stretch it fit the

1 definition of mitigation. So, it simply isn't
2 relevant.

3 MR. MOORE: It's relevant to the sentence, Your
4 Honor.

5 THE COURT: Okay. I'm going to have my staff
6 attorney look up -- do some research on that and see
7 if there's anything with regard to that or anything
8 close with regard to that and if you'll not call him
9 as your first witness.

10 MR. MOORE: Well, let me see if is present.

11 THE COURT: And then perhaps we could -- you
12 could give me a moment, we'll take a moment on that
13 and do another witness first and I'll address it
14 after that witness.

15 Okay. Is the jury up? Okay.

16 MR. BROWN: Your Honor, may I make a quick
17 phone call?

18 THE COURT: Yes, you may.

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

21 THE COURT: Mr. Pirolo, I think you're doing
22 this. This is the power point and this is -- she put
23 it on DVD already.

24 MR. PIROLO: Okay.

25 THE COURT: Do you want to take this and during

1 a break maybe check it out or are you satisfied that
2 that's it?

3 MR. PIROLO: I trust her but I'll double check
4 it.

5 THE COURT: Do you want both or just this?

6 MR. PIROLO: The CD is evidence.

7 THE COURT: So, hold that, give that back to
8 the clerk. I'll give this to you and when you get a
9 chance check it out and when you're ready -- any
10 objection to that by the State?

11 MR. BROWN: No.

12 THE COURT: Substitute that DVD for the power
13 point?

14 MR. PIROLO: That's the DVD off the --

15 THE COURT: Miss -- my staff attorney just made
16 from the power point itself. I'm not sure Dr. Wu
17 would want all that to go through the --

18 MR. PIROLO: Probably not.

19 THE COURT: What is it, nine automatic appeals.
20 I don't think anyone realized that other stuff was on
21 there.

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

24 THE COURT: Mr. Moore, we ready? Do we have
25 the other witness?

1 MR. MOORE: Oh, the other witness. Yes, we do,
2 it will be Dr. Olander. Right outside.

3 THE COURT: Okay. Then we can bring in the
4 jury. Any other matters? Okay. We can bring in the
5 jury.

6 MR. PIROLO: Your Honor, for the record, I've
7 reviewed the DVD and it does contain the entire
8 presentation Dr. Wu used.

9 MR. MOORE: Your Honor, I ask Mr. McAndrew be
10 exempt from the rule. We don't know this is going to
11 play out.

12 THE COURT: Why would he be exempt from the
13 rule?

14 MR. MOORE: We don't need him. We can have him
15 step out.

16 THE COURT: Okay. All right. Then we'll
17 substitute the DVD for the power point -- what is
18 that called?

19 UNIDENTIFIED SPEAKER: Flash drive.

20 THE COURT: Flash drive just for the record for
21 the DVD of the power point presentation of Dr. Wu.
22 Thank you.

23 MR. PIROLO: Thank you, Your Honor. Thank you
24 to your staff attorney as well.

25 (Thereupon, the jury was escorted into the

1 courtroom by the court deputy and the proceedings were had
2 as follows:)

3 THE COURT: Please be seated. Good morning,
4 ladies and gentlemen.

5 THE JURY PANEL: Good morning.

6 THE COURT: Has anyone read or been exposed to
7 reading newspaper headlines and/or articles relating
8 to this trial or its participants?

9 THE JURY PANEL: No.

10 THE COURT: Have you seen or heard television,
11 radio or Internet comments about this trial?

12 THE JURY PANEL: No.

13 THE COURT: Have you read any news or articles
14 relating to this trial or its participants?

15 THE JURY PANEL: No.

16 THE COURT: And has anyone conducted or been
17 exposed to any research regarding any matters
18 concerning this case?

19 THE JURY PANEL: No.

20 THE COURT: And have you discussed this case
21 among yourselves or with anyone else or allowed
22 anyone to discuss it in your presence?

23 THE JURY PANEL: No.

24 THE COURT: Okay. Thank you. Okay. First
25 witness for today on behalf of the Defense.

1 MR. MOORE: We call Dr. Jacquelyn Olander.

2 THE COURT: Okay. Ma'am, if you'll step up
3 before the clerk and be sworn.

4 THEREUPON,

5 DR. JACQUELYN OLANDER,
6 having been first duly sworn, was examined and testified
7 upon her oath as follows:

8 THE COURT: And once again, please be seated
9 and do adjust that microphone and do talk into that
10 microphone for us. Okay. Mr. Moore.

11 MR. MOORE: Thank you.

12 DIRECT EXAMINATION

13 BY MR. MOORE:

14 Q Dr. Olander, would you reintroduce yourself to
15 the jury, please?

16 A Yes, my name is Dr. Jacquelyn Olander and I'm a
17 licensed psychologist and my office is in Winter Park,
18 Florida and my speciality is in neuropsychology.

19 Q And we are now focusing on the issues related
20 to Mr. Bradley's mental processes, his state of mind at
21 the time of the shooting and I'd ask you to address the
22 matters that you discussed with Mr. Bradley related to his
23 drug consumption from the beginning that he related to you
24 and then more specifically from the time of within about
25 twelve hours of the shooting. So, let's start with that.

1 And that would have occurred during the first or the
2 second interview you had with Mr. Bradley?

3 A Okay. He reported that he began using drugs
4 around middle school while at the same time he started
5 hearing voices. He started off with marijuana and began
6 using it on a daily basis, quite soon after he started --

7 Q Did he give you an age when he started?

8 A Around twelve. And then as time passed he
9 increased his use of other drugs including Ecstasy, Xanax.
10 Cocaine wasn't his favorite but he used it occasionally.
11 The cough syrup. What else. Mushrooms, mollies, a lot of
12 the common lingo of various type of substances that
13 creates alterations in the brain.

14 Q Xanax?

15 A Xanax, sorry, he used that quite a bit. Xanax
16 is commonly used for people who have a lot of fear and
17 anxiety. I met a lot in the cases I've worked.

18 Q Was there a point in time when let's say within
19 six months before March the 6th, 2012, when his drug
20 consumption increased?

21 A Yes, his paranoia increased, he even reported
22 close to the time that this legal event occurred that
23 there was a belief that there was a hit out on him and a
24 few days prior to this event he perceived or believed that
25 somebody had been shooting at him. So, as his fear

1 increased his anxiety increased, and particularly after
2 his brain injury in 2008 his substance abuse increased and
3 that's consistent with the nature of his brain injury.
4 That -- again that disconnection from the control
5 mechanisms has been associated with increased risk for
6 addiction.

7 Q Did he express to you fears of being shot
8 during that six month period or even before that?

9 A Oh, even before that. Having the loss
10 beginning back to the age of fifteen of five significant
11 people in his life, particularly three of them from
12 shooting, one from a bizarre accident which he was blown
13 up he began believing that he had a foreshortened future.
14 In other words, his life would be ending prematurely. He
15 stated he thought he'd be lucky if he lived to the age of
16 twenty-five.

17 Now, these fears were also associated with his
18 psychosis, the voices were telling him that somebody is
19 going to be shooting him, and in particular to be careful
20 of those individuals who took oath because if someone
21 takes an oath they are allowing the dark side to take
22 possession of them and that's what they're after, they're
23 after your spirit and then if they take your spirit you
24 will die.

25 Q Did he express a fear in particular of law

1 enforcement officers?

2 A Yes, in particular police officers, he had a
3 particular fear of police officers that they were going to
4 shoot him because he's personally known of instances in
5 which people he knew were shot by police.

6 Q Did Mr. Bradley relate to you the circumstances
7 of -- preceding the shooting that occurred at the
8 EconoLodge Motel?

9 A Yes, he recalled that morning after the night
10 before of extended use of drugs, including the Xanax, that
11 he was awakened and he observed his girlfriend loading
12 items into the van and she asked him to help her load up
13 the items into the van and as he was doing that it wasn't
14 until later that he became aware that these were actual
15 items that belonged to the motel.

16 Q Did he discuss the specific drug consumption by
17 himself from let's say midnight of March the 6th until
18 about 11:00 a.m. when the shooting occurred?

19 A In particular he reported he had taken up to
20 about twelve pills of Xanax, did a few lines of cocaine,
21 drank about six ounces of that codeine with, I don't know
22 if I pronounce the name correctly, of the prom --

23 Q The benzodiazepines?

24 A Well, that's the Xanax, it's the cough syrup
25 that has the drug altering component to it. I can refer

1 to my notes but it's promethazine.

2 Q It's the cough syrup?

3 A Yes.

4 Q That he was drinking?

5 A Right.

6 Q To get the effect, an effect from it?

7 A Right. And also he had some mushrooms as well.

8 Q And so after their car left the EconoLodge, how
9 did he relate to you the circumstances which led up to the
10 shooting or what did he relate?

11 A He related that he didn't -- I don't think --
12 he described following his girlfriend's directions and
13 when she told him to turn off he turned off and he stopped
14 because she told him to pull over and stop, he wasn't
15 really aware at that time that police were involved. Then
16 when he became aware of the officer and she got out of the
17 car and started asking him to get out of the car, he
18 described being very confused because -- and again that's
19 on the police video and in the police records that he was
20 confused stating that I'm from the hood, we know that
21 you're not supposed to get out of the car, that they come
22 to you. So, given his use of substances connected with
23 his damaged brain, he had the -- his ability to come up
24 with alternative possibilities as to why the officer was
25 asking him to get out of the car was substantially

1 impaired, plus something called cognitive flexibility. In
2 other words, if you try to do something that doesn't work
3 you switch to another strategy. That was clearly impaired
4 in Mr. Bradley's circumstances and that was consistent
5 with the results of my intellectual as well as cognitive
6 testing on my neuropsychological evaluation. So --

7 Q Doctor -- I'm sorry, go ahead.

8 A And so his ability to think of another
9 possibility that the officer might be focusing on was
10 impaired. He was completely focused on his paranoia I'm
11 going to get shot and that was his fear in reality to him
12 at that time.

13 Q Dr. Olander, were you made aware from any
14 sources of the perceived fear by Mr. Bradley, whether it
15 was rational or not, whether it was realistic or not, that
16 he would be shot by that deputy during that stop?

17 A Yes, he described her as being possessed. When
18 he saw her she appeared possessed to him as if she was
19 under the influence of the darkness and that -- and that's
20 why he kept asking her over and over repeatedly are you
21 going to shoot me, why are you going to shoot me, are you
22 going to shoot me for this.

23 Q Were you made aware of that other than what
24 Mr. Bradley told you that he feared being shot? You
25 listened to the DVD of --

1 A Right. Right.

2 Q From the patrol car?

3 A Right.

4 Q Did you listen and were you able to hear the
5 exchange of voices in the approximately six seconds
6 leading up to the shooting?

7 A Yes, I heard him, I heard him repeatedly ask
8 are you going to shoot me, shoot me for this, and I --
9 again, if you look at the video, when he actually pulled
10 over and parked, he knocked over a gas can, he was driving
11 erratically, actually crossed over the yellow line.

12 Q Let me just a few questions related to what
13 we've been discussing here and sort of put it together.

14 You also reviewed the medical records from the
15 jail, did you not?

16 A Yes, I did.

17 Q And was there any indication in there that
18 Mr. Bradley while he was in custody of the Seminole Count
19 Jail or the Brevard County Jail suffered a head injury?

20 A No.

21 Q Okay. Assume this hypothetically. Assume the
22 drug use that was made known to you from Mr. Bradley
23 for -- well, the lifetime of the use but in more
24 particularly and more specifically the six to twelve hours
25 or so before the shooting. Assume also the results of the

1 toxicology report which shows a THC level of 5.4 nanograms
2 per milliliter in the blood nearly thirty hours after the
3 shooting. Assume also the presence of alprazolam in that
4 toxicology report in Mr. Bradley's blood. Assume the
5 impairing faculties that you observed when you looked at
6 the DVD prior to when the police went in and began their
7 interview of him when he was sleeping, when got up, when
8 he fell out of the chair. You observed that, you
9 testified to that?

10 A Correct.

11 Q Okay. Assume -- and this was over a seven hour
12 period before the interrogation began.

13 A Yes.

14 Q Closer in time to when the shooting occurred.

15 A Yes.

16 Q Assume that Mr. Bradley was generally speaking
17 in the time let's say weeks if not months before this
18 shooting was paranoid and distrustful of people.

19 A Yes.

20 Q Assume that he believed that hit had been
21 placed on him, somebody wanted to kill him in particular,
22 that he had lost several friends of violent deaths.

23 A Correct.

24 Q Assume that he was in fear of police officers,
25 assume that the MRI showed a significantly atrophied

1 amygdala and that the behavioral correlates of that would
2 be an increased perception of real, whether it's imagined
3 or whether its accurate or not, but it's increased in the
4 tendency to perceive situations as threatening or
5 dangerous.

6 A Correct.

7 Q To be fearful of them.

8 A That's the limbic cortex, yes.

9 Q And presume also that the PET scan revealed a
10 significant deficit in the orbital frontal cortex of the
11 brain which is the ability to control or modulate
12 behavior, the stop start mechanism, assume that as well.

13 A Correct.

14 Q Assume that Mr. Bradley had been hit in the
15 head two or three times, one involving an accident in
16 1988, two other times that weren't documented but were
17 reported by Mr. Bradley.

18 A Excuse me, sir, it was 2008.

19 Q 2008. What did I say? All right. 2008.
20 Thank you for correcting me.

21 And also assume Mr. Bradley asked the police
22 officer two or three times before he shot that he -- if he
23 was going to be shot himself, and assume also the
24 deposition of Andria Kerchner where she reported that
25 that's what Mr. Bradley said as well and that's what

1 Mr. Bradley told the police in his interview when he was
2 being interrogated. Assume all of that. Okay. On the
3 basis of that, what is your opinion as to at the time of
4 the shooting whether Mr. Bradley's capacity to appreciate
5 the criminality of his conduct or perform his conduct to
6 the requirements of law was substantially impaired? What
7 is your opinion on that?

8 A I believe that's true, his ability --
9 particularly related to his ability to conform his conduct
10 to the requirements of the law were substantially
11 impaired.

12 Q Why do you believe that?

13 A Just again what you reiterated, all of those
14 factors were particularly relevant in his case, his
15 paranoia, his belief system and his brain damage.

16 Q You state -- are you stating that to a degree
17 of psychological certainty?

18 A Neuropsychological certainly.

19 Q Neuropsychological certainty.

20 And also, part of that assumption was your
21 determination from the -- not the waste, decaps?

22 A Yes.

23 Q On the performance -- the deficits in the
24 performing of cognitive performing? You know what I'm
25 talking about?

1 A Yes, the results of my neuropsychological
2 testing was highly consistent with the --

3 Q Processing speed, that's what I was looking
4 for.

5 A Correct. Was highly consistent in what you
6 would expect to find based upon the results of the MRI and
7 the PET scans, very consistent.

8 Q Okay. So, that's part of what I asked you to
9 assume.

10 A Correct.

11 Q And so the second part of that is assuming all
12 of that, what is your opinion as to whether at the time of
13 the shooting Mr. Bradley was under the influence of
14 extreme mental or emotional disturbance?

15 A He absolutely was. This is a man who is in
16 fear of his life, who believed that he was going to be
17 shot, he's experiencing significant disturbance of his
18 emotions and mental functioning.

19 Q And then based upon those items that I've asked
20 you to assume, what at the time of the shooting was
21 Mr. Bradley's capacity for calm and cool reflection?

22 A From both a psychological perspective given his
23 paranoia, his psychoses as well as from a cognitive
24 perspective regarding the way his brain was functioning,
25 he was substantially impaired from both factors, and then

1 the interaction of the two makes it three signature
2 factors and that interaction is particularly relevant in
3 this case.

4 Q Are you saying as to his capacity for calm and
5 cool reflection that it was merely impaired or was he not
6 cable of that?

7 A It was substantially impaired.

8 Q And as to this, what is your opinion, what was
9 Mr. Bradley's ability or capacity to formulate a careful
10 plan or prearranged design to commit murder at the time of
11 the shooting?

12 A Again, his -- the executive part of the brain
13 is the part of the brain which we plan, reason, consider
14 alternatives, that's where the organization occurs. Given
15 the state of his brain compared to his emotional
16 functioning, he was acting almost instinctively versus
17 from a premeditated means of functioning.

18 Q And you're stating these opinions to a degree
19 of psychological certainty?

20 A Yes, sir, I am.

21 MR. MOORE: No further questions.

22 THE COURT: Cross examination by the State.

23 MR. BROWN: Yes, Your Honor.

24

25

CROSS EXAMINATION

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BY MR. BROWN:

Q Dr. Olander, concerning your testimony what the defendant told you concerning his paranoia, you indicated Mr. Bradley told you he had heard gunshots leaving a store, right?

A Yes.

Q And that's -- you indicated that in your report, correct?

A Correct.

Q And that he then believed someone was shooting at him because prior to that someone had told his girlfriend that a hit had been placed on him?

A Correct.

Q And it was only after that incident that he began carrying a gun?

A Yes.

Q And in the timeframe concerning the shooting, when did he have this sense of paranoia about a hit being placed on him and somebody shooting, you indicated fairly close?

A I'm not sure I understand. He believed --

Q The timeframe of when he thought somebody was putting a hit on him to the time of the shooting.

A It was within, within a few days I think as I

1 recall from my interview with him. Part of it was related
2 to his understanding that his girlfriend's ex-boyfriend
3 was upset about the break up.

4 Q So, he tells you all this happens within a few
5 days of the murder of Deputy Pill?

6 A Yes, within a few days, up to a week or ten
7 days, something along that time period.

8 Q Two weeks?

9 A Okay.

10 Q Some time within the two week timeframe, is
11 that fair?

12 A For the hearing the gunshots, yes.

13 Q Right, hearing the gunshots, finding out
14 there's a hit on him, right?

15 A That could have been a little bit earlier but
16 the gunshots reinforced that belief.

17 Q Okay. And then because of the finding out the
18 hit or the gunshots is when he went out and got the gun?

19 A That's when he started carrying a gun is what
20 he told me.

21 Q Okay. And by carrying it, is that when he went
22 and got the gun because obviously --

23 A No, I don't -- I can't make that determination,
24 he didn't say that's when he got the gun, that's when he
25 started carrying it with him.

1 Q So, it's when he started carrying the gun is
2 when he found out there was a hit on him and that was
3 within a few weeks of the murder of Deputy Pill?

4 A That's my understanding.

5 Q That's what he told you, right?

6 A Yes.

7 Q And that's where your understanding comes from?

8 A Yes.

9 Q And your whole diagnosis is based on the
10 validity of the details and the things that he tells you,
11 correct?

12 A I wouldn't say whole, this is man who has an
13 impaired brain who has impairment in regards to his
14 conceptualization of time because that's confusing for
15 him, but his story -- the primary details of the story
16 were consistent with the person I found in front of me
17 that day I was evaluating him.

18 Q And your finding of the paranoia is in part
19 based upon the details that he's giving you?

20 A Correct.

21 Q Okay. So, the details of all of this happening
22 near the time of the shooting and causing him, you know,
23 having a hit on him to carry a gun, that -- those all
24 occurring close to the time of the murder of Deputy Pill,
25 that goes into your belief that he's suffering from

1 paranoia and he's afraid of the police?

2 A That's just a piece. I believe he suffered
3 from paranoia before that. It was a combination of
4 his experiences.

5 Q But the factors -- he's telling you this, this
6 is all adding up and increasing that level of paranoia
7 when he encounters Deputy Pill on March 6th, 2012,
8 correct?

9 A Correct.

10 Q And as we talked about when you testified in
11 the guilt phase, if information is given to you that is
12 not correct, then that reduces the accuracy of your
13 opinion, correct?

14 A Yes.

15 Q And your confidence in your opinion?

16 A Yes.

17 Q You know the old saying, garbage in, garbage
18 out, correct?

19 A Correct.

20 Q Now, did he tell you what items he carried from
21 the hotel room?

22 A I don't recall. I think that initially he
23 stated that Andria helped him pick up a piece of furniture
24 but that was dropped. I also think there were other
25 items, maybe linens. I'd have to go back and review my

1 notes.

2 Q But you testified that she asked him to help
3 her carry things out and it was only later that he
4 realized that it was hotel property?

5 A Yes, it wasn't initially at the time she asked
6 him that he appreciated that it was.

7 Q Was it when he carried things out?

8 A He described being awakened from a night long
9 of substance abuse.

10 Q Regardless of when he was waking, when he was
11 carrying the things out, the property out, is that when he
12 realized, hey, this is hotel property?

13 A Some time along that process, not when he was
14 initially asked to carry out items. At that moment he was
15 not appreciative that these were stolen items. How long
16 it took him to get that awareness, if it was just a few
17 more minutes of waking up or if it was five minutes, ten
18 minutes later, he wasn't that specific.

19 Q Was he aware of it when he went to carry the
20 first item of hotel property out of that hotel room?

21 A To my best recall, it was some time as he was
22 in the process. I don't know if it was a moment, five
23 minutes or ten minutes but it was after he had been asked.

24 Q How about not to your best recall, how about to
25 your best guess as an expert in this field, when did he

1 realize that, hey, this stuff I'm carrying out to the
2 truck may not be mine, may not be hers?

3 A I think it had to do with his waking up from a
4 drug induced sleep. I think it was also he was observant
5 of some of the individuals who were employed at the motel
6 reaction. I think it was a combination.

7 Q So, are you telling this jury that he could
8 have carried down furniture hotel, bedding and not
9 realized that didn't belong to either him or Andria
10 Kerchner?

11 A No, I think it was soon after he was asked.

12 Q Okay. So, when he's carrying it down he knows
13 what he's doing?

14 A Yes, I think he developed an awareness.

15 Q And he knows that it's not his?

16 A Correct.

17 Q It doesn't belong to Andria Kerchner?

18 A Correct.

19 Q And he's stealing?

20 A Correct.

21 Q And he knows that?

22 A Yes, he's following her directions.

23 Q Okay. According to him he's following her
24 directions, right?

25 A Correct.

1 Q But he knows he's stealing?

2 A Yes.

3 Q And again you say following the directions
4 because this is someone that acquiesces to authority, does
5 what he's told to do?

6 A It's because he's passive dependent, he
7 believes she is carrying his baby and he very much is in
8 love with her.

9 Q So, he carries all those items out to the
10 truck, puts them in the truck, right?

11 A Yes, he carries some items, I don't know how
12 many.

13 Q And then at a certain point he is approached by
14 various members of hotel staff, right?

15 A They are approached, yes.

16 Q And they're told give the stuff back, right?

17 A I'm sure that's what they would be told, yes.

18 Q Did you talk to him about that?

19 A No, I did not.

20 Q How come you didn't ask him about that?

21 A Because the facts were fairly clear, were clear
22 that he was taking items from the hotel and putting them
23 in the vehicle.

24 Q Okay. So, a man is standing in front of his
25 car telling him give the items back or we're calling the

1 police, pulls out the cell phone after he makes this order
2 of him several times telling him give it back or we're
3 calling the police and the defendant elects to drive off,
4 you don't talk to him about that, you don't ask him about
5 that?

6 A Again, given his state of mind, his cognitive
7 impairment, his description of being under the heavily
8 influence of, drugs his ability to consider alternatives
9 to plan, to think rashly were substantially impaired. So,
10 his story was consistent with his --

11 Q I understand your opinion that you feel --

12 MR. MOORE: The witness needs to finish her
13 answer. I ask she not be interrupted.

14 THE COURT: Okay. Overruled.

15 BY MR. BROWN:

16 Q I understand your opinion that you feel his
17 ability to appreciate was substantially impaired, my
18 question is why if you're looking at his ability to
19 process things, to make decisions, why in the world would
20 you not ask him about his decision to drive away with that
21 stolen property when there's a man in front of that truck
22 telling him to stop and give it back or we're going to
23 call the police? Why would you not ask him about that?

24 A His -- the component of his story that was
25 particularly relevant was his need to protect his

1 girlfriend, get her in the car and get out of there.

2 Q So, that's the reason why you didn't ask him
3 anything about leaving and striking the maintenance man?

4 A He described getting into the vehicle and an
5 overwhelming need to get himself and herself out of there,
6 I figured the question was asked and answered.

7 Q Okay. So, he needed to get out of there,
8 right, because he knew the police were coming?

9 A That or that he was going to somehow -- they
10 would get in trouble.

11 Q Right. They would be arrested, right?

12 A Yes.

13 Q He was afraid of being arrested?

14 A He did not want -- yes, he was afraid of
15 police.

16 Q He did not want to go back to jail?

17 A No.

18 Q Did not want to go back to prison?

19 A No.

20 Q So, that was -- his goal was to get out of
21 there to avoid that?

22 A To get them out of there.

23 Q To get himself and his girlfriend out so
24 neither one would be arrested?

25 A Correct.

1 Q Right? So, he had that as a goal to avoid
2 arrest, we need to leave?

3 A Yes.

4 Q He's able to process all that information,
5 right?

6 A A fear response is one of our most primitive
7 response, it exists in living beings. So, yes.

8 Q He's able to process that and realize if I stay
9 here, I'm not giving the property back, if I stay here I'm
10 going to be arrested and I'm going to jail?

11 A Great likelihood of that happening, yes.

12 Q Now, in your testing you did the Delis-Kaplan
13 executive function system test, correct?

14 A Correct.

15 Q And in your report you list the results from
16 the verbal comprehension, excuse me, wrong page, from the
17 trail making test --

18 MR. MOORE: What page are we on?

19 MR. BROWN: Page 8.

20 BY MR. BROWN:

21 Q The trail making test and the verbal fluency
22 test.

23 A Yes.

24 Q Did you give any of the other -- the
25 Delis-Kaplan is a nine part test in total, correct?

1 A Correct.

2 Q And those two sections are two of the nine?

3 A Correct.

4 Q Did you give any of the other nine?

5 A No.

6 Q Okay. Now, the test -- if you gave all nine it
7 takes about ninety minutes total, correct?

8 A It could, it may take longer, it varies
9 depending upon the individual.

10 Q On average isn't that what the manufacturer
11 indicates about ninety minutes?

12 A For -- approximately ninety minutes but it
13 varies when somebody -- particularly if they have impaired
14 processing speed.

15 Q What is the tower test portion of Delis-Kaplan
16 executive functioning?

17 A The tower test actually came from the earlier
18 test version called the Tower of Hanoi, it's a nonverbal
19 problem solving test which measures nonverbal reasoning,
20 inhibition, considering alternative ways of thinking and
21 planning.

22 Q Deals with inhibition of impulsive responding,
23 right?

24 A Correct.

25 Q You opted not to give that test?

1 A No, I did not administer that test.

2 Q The test you gave, the trail making test, five
3 parts of that, tell the jury the visual scanning what is
4 involved in doing that test. What did you ask the
5 defendant to do in doing that test?

6 A On the visual scanning test there are two pages
7 of numbers and what they had to do is there's a target
8 number identified and they had to find all those target
9 numbers on both pages and cross them out and it is timed.
10 So, the score's based upon on how long it takes a person
11 to find all the targets and cross them out.

12 Q And in the number sequencing test, can you tell
13 the jury when you ask someone to do the number sequencing
14 test, what are they doing there?

15 A What they're doing is you have again two pages
16 of numbers and you ask them to start with the lowest
17 number and draw a line that connects those numbers one to
18 each other in a series until you get to the end. And
19 again it is timed and the score's based upon how long it
20 takes an individual to do that.

21 Q And the letter sequencing?

22 A Same thing, there is -- you start with the
23 letters of alphabet A, B, C and then you connect them all
24 the way up to P I think is the last number, and again it's
25 timed.

1 Q Next one was the number letter switching?

2 A Okay. Again, it's a sequencing task in which
3 you start with -- you alternate between a number and a
4 letter as you complete the task.

5 Q And the motor speed?

6 A And that's just a simple motor speed where you
7 have again two pages in which there is a dotted line and
8 the person has to trace on top of it as quickly as you can
9 and there's circles at various points that you have to
10 make sure you touch.

11 Q And then in the verbal fluency test, it was
12 letter fluency, tell the jury what a person has to do for
13 that one.

14 A I'm going to give you a letter of the alphabet
15 and there are rules, I want you to repeat as many words as
16 you can think of that start with the letter. For example,
17 if I say the letter T, I want you to tell me as many words
18 that you think of that begin with the letter T. Now, you
19 can't give me a T word that's a number like twelve, you
20 can't give me the name of a place like Texas, and you
21 can't give me the name of a person like Tom, also you
22 can't give me the word and then one's with different
23 ending. Like if you take you can't say taking.

24 Q And the next category was the category fluency
25 test, tell the jury what a person does for that test.

1 A On this task I want you to -- you'll have sixty
2 seconds, I want you to name as many animals as you can.

3 Q Category switching?

4 A That's when you -- I want you to name a fruit
5 and then name a piece of furniture, name a fruit and then
6 name a piece of furniture.

7 Q And if I understand it correctly, there's the
8 category switching and you scored his total correct
9 responses and then total switching accuracy?

10 A Correct.

11 Q That's just two ways to score the same test or
12 is that two separate tests?

13 A It's the same test that measures two different
14 components of it. One measures the ability to switch from
15 the fruit to a piece of furniture and the category
16 switching is the person's ability to generate a response,
17 to come up with a way of answering.

18 Q And out of the nine parts of the Delis-Kaplan
19 test, those are the two that you opted to give, correct?

20 A Correct.

21 Q Now, you testified previously and again today
22 about the incidents that the defendant gave you concerning
23 brain injury?

24 A Yes.

25 Q Now, Mr. Moore asked you during the time the

1 defendant's been in custody since his arrest you looked
2 through the records to see if there was any report of
3 brain injury, any report of head injury, correct?

4 A Let me make sure I understand the question.
5 You asked me when I reviewed the records from his
6 incarceration.

7 Q Yes.

8 A Were there ever any documented incidents which
9 would be that?

10 Q Right. Since March 12th -- or March 6th, 2012,
11 when he's been arrested, you've reviewed the jail records
12 since that time, correct?

13 A Yes.

14 Q And you do that to look to see if there's any
15 indication that he suffered a head injury, correct?

16 A Or any other signature intervening event.

17 Q And the fact that you didn't find any leads you
18 to believe that there was no instance of suffering a head
19 injury or significant injury, correct?

20 A That there was no documentation of a
21 significant intervening event.

22 Q Yes.

23 A Yes.

24 Q That leads you to believe that there was no
25 significant event that occurred after his arrest through

1 the timeframe of those jail records, correct?

2 A There was nothing there, correct.

3 Q Right. And the fact that there's nothing there
4 leads you to believe that nothing happened as far as any
5 significant head injury?

6 A I'm not aware of any.

7 Q Right. And you look at them because if he's in
8 custody and it happens it's going to be documented, right?

9 MR. MOORE: It would be what?

10 BY MR. MOORE:

11 Q It will be documented.

12 A That's the logical assumption, yes.

13 Q Right. So, we talked earlier he gave you three
14 instances of when he had a head injury?

15 A Correct.

16 Q Okay. And you took him, as we talked before,
17 you took him at his word for those three instances and all
18 three of those could have contributed to the level of
19 brain damage you've discussed, correct?

20 A Just wasn't his words, sir, it was the result
21 of testing and his performance on measures to assess
22 whether or not he was being forthright and answering based
23 upon his understanding.

24 Q So -- but you looked at his words and you took
25 him -- your testing showed he wasn't lying to you, wasn't

1 malingering, right?

2 A Correct.

3 Q So, you believe what he was telling you to be
4 relatively truthful?

5 A And it was consistent with the results of my
6 testing and the results of neuro-imaging. So, it was a
7 combination of all those factors.

8 Q Right. And the third one of those three
9 instances he told you about was the one where he gets hit
10 in the head by a lock while he's in DOC custody, correct?

11 A Yes.

12 Q And of course you looked in the DOC records to
13 see if there was any documentation of such an injury?

14 A The record -- I did not have every piece of
15 paper from DOC, I had a review of his initial assessment
16 and in the records I reviewed there was nothing there.

17 Q Right. So, there's no documentation of that
18 injury but you believe him?

19 A Okay. He described it being in a juvenile
20 program but.

21 Q But he's nineteen when it happened, right?

22 A In the juvenile program, yes.

23 Q No, he told you he was nineteen when it
24 happened, right, and at that time he was in the Department
25 of Correction custody?

1 A He was in custody, yes.

2 Q Right. And those records do not show any
3 indication whatsoever of him having a head injury?

4 A Not that I'm aware of.

5 Q But yet he told you and you took his word for
6 it?

7 A I took his word for it based upon the other
8 factors I previously testified about.

9 Q Now, he also told you about the monkey bars,
10 correct?

11 A Yes.

12 Q He was fifteen, fell off the monkey bar at
13 school, lost consciousness?

14 A Yes.

15 Q And he graduated at seventeen?

16 A Correct.

17 Q So, he had somewhere in the neighborhood of
18 two, maybe two and a half years in high school after the
19 monkey bar incident?

20 A Yes.

21 Q And throughout that entire time in school his
22 GPA each year goes up, correct?

23 A Correct.

24 Q Started ninth grade was a 2.4, right?

25 A Yes.

1 Q Tenth grade 2.59?

2 A Yes.

3 Q Eleventh grade 2.63?

4 A Yes.

5 Q And ended up with a 2.6 GPA total, right?

6 A Yes.

7 Q So, the monkey bar incident, if anything, if it
8 had any effect, it caused his grades to go up?

9 A Sir, you're not understanding the dynamics.
10 First of all, having been a classroom teacher for sixteen
11 years, if you understand, there's no statistical
12 significance between those GPAs that you reported. So, it
13 could be just based upon the classes you take, it could
14 have a complete influence on one's GPA. If you've taken
15 the basic classes and you have more electives available,
16 you could have higher GPAs.

17 Secondly, injuries have an accumulative effect.
18 In other words, you can get a bad hit bruising on your
19 brain and it's not going to show significant impairment in
20 functioning but the commutative numbers of events could be
21 much more significant.

22 Also if a brain injury occurs when you're under
23 the influence of drugs or alcohol, the likelihood of that
24 injury being much more significant is increased
25 significantly.

1 Q But regardless of that, you would agree his GPA
2 after this monkey bar incident not only doesn't stay the
3 time, it continues to increase?

4 A There is no significant changes in his GPA
5 after this incident.

6 Q Right. Those change because it increases from
7 a 2.4 in ninth grad to a 2.63 in eleventh grade, right?

8 A There's no significant changes.

9 Q Okay. You feel that increase is significant or
10 not?

11 A No, he performed at his -- he performed at an
12 equivalent level.

13 Q And then the other incident that we've talked
14 about is his indication to you of the car crash?

15 A Yes.

16 Q Right? Now, we had some discussion about this,
17 the hospital records concerning his -- the fact of the
18 defendant's head hitting the airbag, the hospital records
19 indicate that the patient reports his head hitting the
20 airbag, correct?

21 A I'd have to go back and review it but.

22 Q Do you have it?

23 A I have it.

24 MR. BROWN: Your Honor, may I approach the
25 witness?

1 THE COURT: Yes, you may.

2 BY MR. BROWN:

3 Q Doctor --

4 A Okay. Just to save time. Okay. Here it is.
5 Yes, here it is, same as mine, sir.

6 Q Okay. And it indicates patient relates hits
7 face on airbag?

8 A Okay. Yes.

9 Q Right?

10 A Yes.

11 Q That's what it indicates?

12 A Yes.

13 Q So, it's clear there that it's -- Mr. Bradley
14 is the one saying that his face hit the airbag, correct?

15 A Correct.

16 Q No indication as he told you of hitting the
17 windshield?

18 A No.

19 Q Now, this crash happens -- or at least he goes
20 to the hospital February 3rd, 2008, right?

21 A A couple of days later, yes.

22 Q Right. Well, the date of the record's 2/3/08?

23 A Okay. Let me see. Yes.

24 Q And he indicated that the crash had happened a
25 couple of days before?

1 A Correct.

2 Q And that subsequent to this is when he goes
3 into DOC custody and they do their evaluation of him,
4 correct?

5 A Correct.

6 Q And -- so, after this car crash where he's told
7 you he had hit the windshield, told the hospital nothing
8 about the windshield, only an airbag, it's after that
9 crash that he goes in, DOC does their assessment of him,
10 right?

11 A Correct.

12 Q He indicates to them no history of
13 psychological history, mental health problems, right?

14 A No mental health problems.

15 Q And they do an IQ and he's at 96 which is
16 average, right?

17 A I would not -- that is an IQ screen and that's
18 what the test developers would describe it at, but that is
19 an IQ measurer that does not assess cognitive executive
20 functioning in the area of the brain of his that is
21 damaged.

22 Q But he scores on the average on an IQ test some
23 period of time after the second of the three instances,
24 the car crash that he related to you, right?

25 A On an instrument that is not accepted by the

1 State of Florida for measuring IQ in regards to public
2 education, yes.

3 Q It's accepted by the State of Florida in
4 Department of Corrections, right?

5 A For their purposes.

6 Q Right, for their purposes of what they're going
7 to do with a person, if they're going to give them any
8 treatment, whenever they use it for, that's the test that
9 they use?

10 A Yes, it's a quick easy screen that you can use
11 in a large group setting, it does not qualify with the
12 same standardization that professional people utilize to
13 determine one's IQ.

14 Q Now, did you talk to the defendant about the
15 car crash that we all know he had on March 6th, 2012?

16 A March 6th, 2012.

17 Q The day of the murder.

18 A Yes.

19 Q Did you talk to him about that?

20 A His recall of going into the ditch?

21 Q Yes.

22 A Okay.

23 Q You consider that a crash, right?

24 A Of course. He recalls going into the ditch and
25 getting wet. His memories are vague.

1 Q Did you ask him whether he had his seatbelt on?

2 A It's my understanding that, I'd have to check,
3 that he was not wearing a seatbelt.

4 Q Okay. And did you watch the videos?

5 A Not of that scene.

6 Q So, you didn't watch the videos of the car
7 crash?

8 A No.

9 Q Okay. Did you read any description of how the
10 crash happened, what happened to the vehicle?

11 A They -- the vehicle ran over those sticks,
12 the --

13 Q Stop sticks?

14 A Yeah, the stop sticks, he lost control of the
15 vehicle and went into a ditch.

16 Q Any detail about how big the ditch was?

17 A No, I don't recall that.

18 Q What side of the vehicle it ended up on, that
19 it ended up on the driver's side, passengers side?

20 A I don't recall, sir.

21 Q You don't know how much he banged around inside
22 that vehicle?

23 A No, I do not know.

24 Q So, did you feel it was necessary to even ask
25 him about did he suffer any blows to the head in that car

1 crash?

2 A He described as being confused under the --
3 not -- how can I say it. In a state of confusion and that
4 was consistent with my observations of him that lasted
5 seven hours on the DVD of his interrogation.

6 Q So, in other words, doctor, you didn't talk to
7 him about possibly suffering any head wounds or hitting
8 his head during that car crash?

9 A He recalled very vague information except for
10 going into a ditch, trying to get out and being wet,
11 that's basically all he was able to describe.

12 Q And you indicated you never bothered to watch
13 the video of that, right?

14 A I wasn't aware that there was a video of that,
15 I just was aware of the videos that had the -- him from
16 the time he was incarcerated all the way up to the
17 testimony.

18 Q Did you try to find out the details of that car
19 crash independent of the defendant telling his bad
20 recollection?

21 A I read them in the police report of a brief
22 summary of it but that's the information I had.

23 Q So, you didn't feel it was necessary to go into
24 detail and find out more about what may have happened to
25 him, to the defendant in that car crash to see if that may

1 have contributed to this brain damage you're seeing?

2 A The information in the police reports did not
3 raise my concern to the point where I would have sought
4 additional information on it.

5 Q But yet showing up at a hospital two days after
6 the fact, not telling them you're seat-belted, telling
7 them your head hit the airbag when he tells you a
8 completely different story, that raises your interest but
9 knowing a car crash doesn't, right?

10 A That's not how I would describe it, sir.

11 Q Okay. Let me ask you --

12 A I'm not finished with my answer.

13 Q Sure, by all means, explain that. I'd love to
14 hear it.

15 A Again, as I talked about --

16 MR. MOORE: Your Honor, may we approach?

17 THE COURT: Yes, you may.

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

20 THE COURT: I'll sustain the objection.

21 MR. BROWN: I would love to hear it.

22 MR. MOORE: Well --

23 THE COURT: Yeah, but that's --

24 MR. MOORE: Mr. Brown, we -- cross examination
25 is fair game but when you get snarky and show a

1 little bit of an attitude, the jury doesn't -- you
2 know, you want the jury to see that but I don't and
3 it's inappropriate, so.

4 THE COURT: Okay. The objection is sustained.

5 Thank you.

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

8 BY MR. BROWN:

9 Q Doctor, please, continue with your answer.

10 A As I testified previously, Mr. Bradley had
11 reported to me that when this accident happened he had
12 been under the influence of many types of drugs and when
13 the brain experiences an injury its ability to store
14 information, recall details is impaired because often much
15 of that memory is not created. If there's an expectation
16 though that you should have some details of that
17 information, the brain will confabulate.

18 Now, this is unconscious, this is not purposely
19 happening on the part of the individual, it's the brain's
20 attempt to fill in the details. You see that frequently
21 particularly with elder populations who are experiencing a
22 loss of brain functioning for them to confabulate. You
23 also see it in somebody who's experienced a brain injury.
24 So, for me to have been given different details doesn't
25 mean necessarily the person is lying, I have to look at

1 the total picture. If in my assessment of malingering it
2 would have come up that he was dissimulating or lying, I
3 would have had much more suspicion that he wasn't being
4 forthright and honest.

5 Q Now, concerning the car crash on March 6th,
6 it's not uncommon, or any car crash, it's not uncommon for
7 somebody to have a bit of amnesia after a car crash,
8 correct?

9 A Correct.

10 Q Especially if you've been thrown about in the
11 vehicle?

12 A Correct.

13 Q May have hit your head?

14 A Correct.

15 Q So, it's possible the defendant could have hit
16 his head in that March 6th car crash and not necessarily
17 recall that and be able to relate that to you, right?

18 A It could have.

19 Q Now, can you tell the jury what is goal
20 directed behavior?

21 A It's when you come up with a plan with an
22 objective and you take steps to complete that objective.

23 Q And if someone has a goal and they take steps
24 at various times and instances, different locations, what
25 does that tell you about their motor functionability,

1 their executive functioning?

2 A Okay. If a person has set a goal, if I'm
3 following your question, and they take steps to reach that
4 goal, depending upon the complexity of the goal, that
5 would demonstrate some capability of setting a plan and
6 following through. For example, you can see that in
7 experiments with animals, you can see that with very young
8 children trying to put a piece of puzzle together.
9 There's all sorts of complexity of goals and objectives.

10 Q And there's a difference between goal directed
11 behavior and impulse control, correct, an inability to
12 control impulses?

13 A And I would add instinctive behaviors as well.

14 Q And instinctive behavior, there's a difference,
15 right?

16 A Correct.

17 Q And impulse control is something where it hits
18 you very quickly and you just impulsively act out, rage or
19 whatever?

20 A Yes.

21 Q It's having the lack of impulse control?

22 A Correct.

23 Q Okay. And goal directed behavior is you have a
24 goal, various times, various instances you do things
25 directed to achieve that goal?

1 A Correct.

2 Q Now, we talked about the hotel, his goal was --
3 Mr. Bradley's goal was to avoid being arrested by the
4 police, right? As well as Andria Kerchner, him and his
5 girlfriend to avoid being arrested and going to prison,
6 going to jail?

7 A I would agree with that.

8 Q Now, did you -- you indicated you haven't
9 watched any of the videos, did you read any of the police
10 reports concerning about what happened after the shooting
11 at Elena Way, the murder of Deputy Pill, when the
12 defendant was engaged in various evasive maneuvers
13 avoiding the police?

14 A Yes.

15 Q Did you read much about that?

16 A Could I add -- excuse me, sir. I would say --
17 after thinking about my response, I would better qualify
18 my answer is his attempting to escape from his situation.

19 Q Okay. So, to start with, when he leaves the
20 hotel he's attempting to escape from there, right?

21 A Correct.

22 Q And obviously when he gets to the point of the
23 shooting, we're talking a distance of ten minutes, right?

24 A Approximately, yes.

25 Q Okay. And he's still attempting to escape from

1 the hotel and now Deputy Pill gets behind him, right?

2 A He was following the directions of his
3 girlfriend.

4 Q Oh, now it's he's following the directions of
5 Miss Kerchner. Did you read --

6 A And making him turn off into the area where he
7 stopped, she told him to stop and he stopped.

8 Q In your review of the material, did you read
9 anything where Andria Kerchner at Elena Way was telling
10 him, begging him pleading not to shoot Deputy Pill?

11 A Yes.

12 Q So, he didn't follow her directions then,
13 right?

14 A No.

15 Q In fact, what he told her was I'm not going
16 back to prison, she's seen my face, she's seen my tag, I
17 got to kill the cracker, right?

18 A That was one of many statements that she gave.

19 Q That's what she indicated he said, correct?

20 A Correct.

21 Q And did you review any of the information from
22 Mr. Dieguez?

23 A Yes.

24 Q And he supported that, correct?

25 A I recall --

1 MR. MOORE: Objection, Your Honor, that calls
2 for a legal conclusion. That calls for an opinion.

3 MR. BROWN: I'll reask the question.

4 THE COURT: Okay.

5 BY MR. BROWN:

6 Q Mr. Dieguez also indicated that Andria Kerchner
7 was begging this defendant not to shoot the deputy, right?

8 A I would have to review that information in one
9 of the reports, I do know that he was -- had provided some
10 statements but I would have to review them to know if
11 that's specifically what he said.

12 Q Let's assume for a minute that that's how Miss
13 Kerchner and Mr. Dieguez testified in trial, that the
14 defendant made various statements that Deputy Pill saw his
15 face, saw his tag and that he would have to kill her and
16 that Miss Kerchner begged him over and over and over and
17 not to do it, assume that was their testimony in court.

18 A Okay.

19 Q Okay. You would agree that at that point the
20 defendant's not acquiescing to what Miss Kerchner wants
21 him to do?

22 A Not at that point.

23 Q Right. And he's certainly at that point not
24 under the substantial domination of Miss Kerchner or any
25 other person at the time of the murder, right?

1 A Correct.

2 Q Because she's telling him don't do it, he does
3 it anyway?

4 A Correct.

5 Q Now, when you reviewed, if you reviewed it,
6 what happened after Mr. Bradley fled from the murder of
7 Deputy Pill in the vehicle, did you read the police
8 reports concerning where he went, the roadways, the
9 officers seeing him at various times?

10 A I recall that he drove down a number of
11 streets, he actually stopped at a garage for a brief
12 period of time.

13 Q So, assume for a minute, and I'll give you a
14 little bit more detail here, it may ring a bell, but
15 assume that this is how the testimony came out, that the
16 defendant was on I believe it was Carolwood driving away
17 from an intersection, when an officer passes that
18 intersection going the other way perpendicular sees the
19 vehicle, makes a u-turn and by the time he gets back there
20 the defendant has now already pulled off that road through
21 a driveway driving on to grass around a pond and basically
22 trying to get out of sight. Assume that to be true. You
23 would agree that's goal directed behavior to avoid that
24 police officer, right?

25 A It was -- it was goal directed to escape.

1 Q To escape?

2 A Yes.

3 Q Not to be caught?

4 A Yes.

5 Q You would agree he drives to the house with an
6 open garage for the purpose of getting gasoline, that's
7 goal directed behavior, right?

8 A Yes.

9 Q During the chase itself he swerves around
10 various stop sticks, that's goal directed behavior, right,
11 to avoid getting caught?

12 A It's a very primitive example of goal directed
13 behavior.

14 Q And his paranoia in part is he doesn't want to
15 go back to prison, right?

16 A No, his paranoia is not described and is not
17 consistent with paranoia, his paranoia is that he's going
18 to be killed.

19 Q Do you feel it's his paranoia that's his
20 driving motivator when he pulls the trigger eight times
21 murdering Deputy Pill or is it his desire and wish not to
22 go back to prison is the dominating motive for him?

23 A It's my opinion that if he wasn't suffering
24 from paranoia he would not have shoot her. If he was not
25 suffering from the belief that he was going to be shot and

1 killed by this person because in his mind she was
2 possessed that he would not have shot her.

3 Q Do you believe that he killed Deputy Pill to
4 avoid being arrested?

5 A He killed her to avoid being shot.

6 Q Not to avoid being arrested?

7 A No, I think he killed her to avoid being shot
8 and killed by this person who was possessed.

9 Q And this is despite him testifying -- or
10 despite him telling Andria Kerchner overheard by Jeffrey
11 Dieguez I'm not going back to prison, I'll do whatever it
12 takes?

13 A He believed that his life was in danger
14 particularly by persons who take oath, persons who are
15 involved in a law enforcement, if he did not have those
16 mental health or psychosis, the paranoid beliefs as well
17 as the brain damage, I do not believe that we would all be
18 here sitting today.

19 Q And your basis -- part of your basis to
20 conclude he's paranoid and his level of paranoia, part of
21 the basis for your opinion is your interview of the
22 defendant, correct?

23 A It is a combination of all. If he'd never
24 reported I would have still put down that he's suffering
25 from paranoia. I do a lot of competency evaluations, I

1 think my CV's like a hundred and fifty times I've
2 testified, many of those times I'm asked to provide an
3 opinion about somebody's mental state. There are often
4 cases of people who are mentally ill who suffer from
5 paranoia that do not state that out of fear of their own
6 internal state. So, it's not just what he says, it's a
7 total picture his behaviors, his presentation that I take
8 into account.

9 Q So, your opinion is despite the fact that he
10 said over and over and over that he was going to kill her
11 because of what she saw and that he wasn't going back to
12 prison, despite him saying that over and over and over,
13 your opinion is that's not his motivation?

14 A What I'm testifying is that the primary reason
15 that he shot her was the paranoia and his belief system
16 that he was in danger of being shot particularly by people
17 who take oaths and law enforcement officers.

18 Q So, your opinion is it's not what he saying his
19 motivation was, it's what you've come up with?

20 A No.

21 Q He's telling Andria Kerchner overheard by
22 Jeffrey Dieguez the reason why he did it is because he's
23 not going back to prison, he's going to do whatever it
24 takes, that she saw his face, she saw his tag, that he had
25 to, quote, kill the cracker or kill the bitch, that's what

1 he said and you're saying that's not his motivation right,
2 his primary motivation?

3 A His primary motivation is to escape from people
4 in authority, to escape from law enforcement officers
5 because his belief that he is going to be shot and killed
6 by them.

7 MR. BROWN: Judge, I have no further questions.

8 THE COURT: Okay. Redirect by the defense.

9 REDIRECT EXAMINATION

10 BY MR. MOORE:

11 Q You indicated that Mr. Bradley was for a
12 variety of reasons not a good historian?

13 A Correct.

14 Q And what would be some of the reasons why you
15 found him not to be a good historian in the two times that
16 you evaluated him?

17 A First of all, this is a man who has suffered a
18 brain injury and in the critical incidents in which we're
19 being asked him to recall the details, he was also heavily
20 under the influence of drugs and alcohol. In other words,
21 he was in an altered state of functioning. When we are in
22 an altered state of functioning, our ability to recall
23 details is significantly less than when we're not in such
24 a state. Therefore, to find some inconsistencies, that
25 would be something I would have concern about but based

1 upon the other factors such as my assessments of
2 malingering which showed no documentation or evidence that
3 he was trying to fake bad or good or to lie to me was
4 perfectly -- absolutely there was no indication of that
5 whatsoever, and based on my experience I believe that he
6 was telling me what he thought had happened.

7 Q Were you aware that Jeffrey Dieguez was a
8 multiple convicted felon who was on probation?

9 MR. BROWN: Judge, I'm going to object at this
10 point and ask to approach.

11 THE COURT: Bench conference.

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

14 MR. BROWN: Judge, I don't believe that's
15 relevant at this point, the jury's heard all of that
16 information, that's argument. I didn't ask her what
17 she believed Mr. Dieguez said, I asked her if she was
18 aware of it and I said assume this is what he
19 testified to the jury, they make a decision whether
20 they believe him or not.

21 MR. MOORE: I'm getting at how much reliance
22 she can place on Mr. Dieguez statements and Miss
23 Kerchner statements, which the State by the way
24 repeated over and over again, to find out how much
25 reliance she could place on that, how much it would

1 affect her opinion as to the credibility of those
2 statements were made by those two people.

3 MR. BROWN: It's improper for her to testify as
4 to their credibility.

5 THE COURT: She can testify as to how much
6 weight she gave it.

7 MR. MOORE: Yeah, she's incorporating them in
8 her opinion which Mr. Brown was quick to point out,
9 repeatedly point out how come you didn't consider
10 that and her opinions about how that would affect
11 Mr. Bradley and Mr. Bradley's motives based upon the
12 testimony of these people. There's more to it than
13 just the testimony of these two people and how much
14 weight would she give those opinions knowing what the
15 jury knows which is what is in evidence.

16 THE COURT: Objection. The objection's
17 overruled.

18 MR. MOORE: Thank you.

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

21 BY MR. MOORE:

22 Q Were you aware that Mr. Dieguez was a multiple
23 convicted felon who was on probation and had lied to the
24 police about his reason for being in jail at a time when
25 he told the police what happened in this case? Are you

1 aware of that?

2 MR. BROWN: Objection, assuming facts not in
3 evidence.

4 MR. MOORE: That's all in evidence.

5 MR. BROWN: No, it's not.

6 THE COURT: Okay. Bench conference.

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

9 MR. BROWN: There's no testimony Mr. Dieguez
10 was ever in jail.

11 MR. MOORE: Hospital. I meant hospital.

12 THE COURT: Okay. That's what the problem was.

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

15 BY MR. MOORE:

16 Q Mr. Dieguez was in a hospital when he lied to
17 the police about his reason for being there, were you
18 aware of that?

19 A I was aware that he was an inmate when he gave
20 one of his statements.

21 Q Okay. And so are those matters that you would
22 take into consideration in trying to decide what effect
23 those statements, alleged statements would have had on
24 Mr. Bradley or even if they ever occurred?

25 A In regards to those statements, I know that

1 with his girlfriend she repeatedly changed her story.

2 Q I'm --

3 A So, that would -- you know, and I read that in
4 the records. So, the credibility of that statement would
5 be something I would have some suspicion about being that
6 an inmate again there was --

7 MR. BROWN: Judge, I'm going to object and ask
8 to approach.

9 THE COURT: Yes, you may.

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

12 MR. BROWN: Judge, this is not being responsive
13 because she's now turned around -- he's asking her
14 about Mr. Dieguez, she's now talking about somebody
15 who's an inmate which Mr. Dieguez was never an
16 inmate. There's been no testimony he was an inmate
17 at the time of making any statement.

18 MR. MOORE: I'm going to focus --

19 MR. BROWN: She's now transferred into Andria
20 Kerchner.

21 MR. MOORE: I transferred her on to Andria
22 Kerchner. I'm going to ask her questions now about
23 Andria Kerchner. I'm going to direct her in that
24 direction.

25 THE COURT: If you'll ask your next question

1 just to get her on point.

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

4 BY MR. MOORE:

5 Q As to the statements that Miss Kerchner gave at
6 various points in time, were you made aware that when Miss
7 Kerchner was first arrested and interviewed by the police
8 shortly after she was taken into custody at the scene of
9 the SUV going in the ditch that for an hour and a half she
10 was asked what had happened inside the car and she not one
11 time said that Mr. Bradley ever said he was going to shoot
12 a cracker or shoot anybody?

13 A Yes.

14 Q And that what she told the police throughout
15 that interview was that Mr. Bradley said he was concerned
16 for safety, he wanted to protect her?

17 A Correct.

18 Q And are you aware also that she, Miss Kerchner,
19 when interviewed by a psychologist hired by her lawyer, in
20 an interview by her lawyer never once attributed any of
21 these comments to Mr. Bradley?

22 A Yes.

23 Q A psychologist who was there to help her?

24 A Yes.

25 Q Which ultimately resulted in her getting a deal

1 where she then for the first time started saying that
2 Mr. Bradley had made these comments and had her charge of
3 first degree murder dropped down to accessory after the
4 fact and she got a twelve year sentence?

5 MR. BROWN: Judge, I'm going to object,
6 compound and asked and answered and leading.

7 MR. MOORE: I asked her if she was aware of any
8 of this.

9 THE COURT: Okay. Overruled.

10 THE WITNESS: Yes, I was, or I am I should say.

11 BY MR. MOORE:

12 Q So, you were made aware also that Mr. Dieguez
13 around the time that he gave his statement to the police
14 and before Miss Kerchner changed her testimony to
15 incriminate Mr. Bradley, that she -- that her -- that
16 Mr. Dieguez had telephone communications with Miss
17 Kerchner's attorney, or his -- Miss Kerchner's attorney's
18 office, were you aware of that?

19 A I was aware that there were multiple interviews
20 being conducted and that the stories changed, that's what
21 I recall spontaneously.

22 Q So, knowing that, can you assume as fact that
23 those statements that are attributed to Mr. Bradley ever
24 occurred?

25 MR. BROWN: Objection. May we approach?

1 BY MR. MOORE:

2 Q In formulating opinion about how those
3 alleged --

4 MR. BROWN: May we approach?

5 THE COURT: Okay. Bench conference.

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

8 MR. BROWN: I'm objecting to the question of
9 asking her whether she can assume something to be a
10 fact or not. The jury is the fact finder.

11 MR. MOORE: For the purposes of her opinion.

12 THE COURT: Okay. We -- ask -- I'm going to
13 sustain the objection, rephrase your question.

14 MR. MOORE: Okay.

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

17 BY MR. MOORE:

18 Q Mr. Brown ask asking you the effect on your
19 opinion with respect to Mr. Bradley's state of mind at the
20 time of the shooting of various alleged statements that
21 were made by Mr. Bradley.

22 A Yes.

23 Q And so would these matters that you are aware
24 of which surround the making of these allegations that
25 Mr. Bradley said these things, would they have any impact

1 on, you know, your opinion about Mr. Bradley's state of
2 mind at the time of the shooting?

3 A When I do an evaluation I come up with
4 alternative hypotheses in regards to my final opinions.
5 In going through that process, I utilize a scientific
6 method in that I obtain data both subjective, usually what
7 people say, and objective which is measured, it can be
8 confirmed. So, putting all those pieces together, I come
9 up with what I call a goodness to fit, what's the best
10 fit, and the data that contributes to determine what is
11 the best fit is based upon that information that is
12 consistent and can be confirmed. So, taking into account
13 these alleged statements, they would have lesser weight
14 than some of the more objective data that I have to
15 review.

16 Q It's critical to your opinions that you have
17 confirmation, cooperation?

18 A Cooperation, confirmation, but if I have data
19 that can't be confirmed but it's consistent with other
20 objective data, that's relevant too.

21 Q Okay. And so these alleged statements that
22 were -- that are attributed to Mr. Bradley and you're
23 assessing of them and your desire to have confirmation of
24 them, were you satisfied in your mind that those alleged
25 statements that are attributed to Mr. Bradley by

1 Mr. Dieguez and Miss Kerchner were corroborated or
2 confirmed?

3 A Other than by each other, no.

4 Q The paranoia that you describe in Mr. Bradley
5 at the time of the shooting, what is the basis for that
6 paranoia?

7 A The basis of that --

8 Q The basis for your opinion that he had that
9 paranoia.

10 A Is his statements, also the objective data that
11 was on the recording was consistent with what he reported
12 to me, that's why he kept asking her over and over again
13 are you going to shoot me, I can't believe you're going to
14 shoot me for this.

15 Q And in discussing with Mr. Bradley the SUV in
16 the ditch, you indicated that his recollection was vague?

17 A Correct.

18 Q And you -- did it occur to you that he may have
19 been injured in that accident in any relevant way, any way
20 that's relevant to your opinion in this case in your
21 evaluation?

22 A In reviewing the police records, the
23 description of the accident, no.

24 Q Did you get any red flags, any indications that
25 you might need to look further to see whether he may have

1 hit his head during that accident?

2 A Again, based upon the data I had, no.

3 Q Any indication that he received any medical
4 treatment or any was offer or that he asked for any
5 medical treatment when he got out of the SUV?

6 A No, and there was no information saying that
7 there was any observed injuries on him as well.

8 Q And the issue of a seatbelt, was that even
9 discussed with Mr. Bradley by you?

10 A In his description of getting out of the
11 vehicle, again, it was vague and a lot of it came from the
12 police report, I would have to go back and look at that
13 with further.

14 Q You were talking about injuries having -- head
15 injuries having a cumulative effect on the brain and
16 that's something you have studied, you've read literature
17 about that and you were certainly asked about it by
18 Mr. Brown.

19 A Absolutely. And again if you look at football
20 and the amount of concussions the player has. I mean,
21 it's clearly documented in the literature.

22 Q And boxers?

23 A Absolutely. Look at Mohammad Ali.

24 Q In your knowledge of this phenomenon of those
25 types of athletes and the cumulative effect related to

1 them, do -- when those athletes head injuries which can
2 be very violent and multiple over their careers, is it --
3 is it your understanding with respect to the cumulative
4 effect of that that that's something that may involve and
5 not appear until years later?

6 A It may not demonstrate itself initially because
7 of the brain response to injury.

8 Q In other words, if a person, a boxer for
9 example, takes a blow to the head, is he -- if he's got
10 the brain injury which later manifests itself in life, is
11 it going to manifest itself right at that point in time?

12 A Not necessarily.

13 Q And it could take years before the apparent
14 effects in terms of his cognitive abilities would appear?

15 A Absolutely, particularly in regards to younger
16 individuals because those most critical higher level
17 thinking processes are developed last and so if a child
18 has an injury -- for example, let's talk about fetal
19 alcohol syndrome or children who are prenatally exposed to
20 cocaine. They may appear pretty normal during the first
21 stages of their life and let's just say they enter school
22 and they can have an IQ of seventy-five but by the time
23 they're fifteen or sixteen or even twenty it is likely
24 their IQ will drop because their higher level cognitive
25 abilities never kick in.

1 Q Is there a relationship between IQ and paranoia
2 or perception of fear?

3 A No, some very brilliant people can be paranoid.
4 Look at the classic music A Beautiful Mind, you know, the
5 true story of the gentleman who -- so, when they're not
6 psychotic they can be brilliant but if they're psychotic
7 and under a state of psychosis, then you can see a
8 significant decrease in their abilities, and if a person
9 begins with psychosis and doesn't get treatment, you will
10 see a decline in their cognitive abilities that's commonly
11 identified in the literature and treatment is the key to
12 prevent that.

13 Q You're aware of the neuro-imaging results which
14 showed anomaly in the corpus callosum and the decrease in
15 the size of the amygdala and the result -- or the
16 behavioral correlation to increased fear or perception of
17 fear, you're aware of that?

18 A Oh, yes, yes, absolutely.

19 Q And the decrease in the functioning of the
20 orbital frontal cortex which would affect and probably
21 would affect the ability to control impulse, for impulse
22 control, you're aware of that?

23 A Right.

24 Q Now, somebody with that profile, would you
25 expect that person always to do or at any time because of

1 that to do poorly on an IQ test? Is there any correlation
2 between that neurological finding and performance on IQ
3 test?

4 A If the IQ test measures that functioning of the
5 brain I would say he would show, you know, impairment, but
6 if somebody is called a screen IQ test that doesn't
7 measure that, then you might not necessarily pick it up.

8 Q You're talking about the Beta test?

9 A Yes.

10 Q And is that one that a competent psychologist
11 not associated with the Department of Corrections would
12 rely on in doing an evaluation of a subject's
13 intelligence?

14 A Not only would they not do it, you would be
15 violating the standards of ethics in our profession if you
16 chose to do so.

17 Q The portion of the medical records related to
18 the 2008 automobile accident Mr. Brown read to you
19 reference that Mr. Bradley, the patient, reporting hitting
20 an airbag, do you recall that?

21 A Yes.

22 Q And the part that wasn't read to you was the
23 report of a possible loss of consciousness, that was also
24 part of that reporting?

25 A Yes.

1 Q Now, the nine parts of the decaps, is that the
2 executive functioning?

3 A Yes.

4 Q Nine parts you gave two?

5 A Yes.

6 Q And why only two of the nine?

7 A Because I would choose to use my time spent on
8 other means of assessment. When you already have
9 sufficient documentation to show the person is impaired,
10 you do not need to keep adding more tests in which you
11 would only gain a small amount of knowledge. I mean, we
12 do not -- my trainings as a neuropsychologist and, you
13 know, we give all the tests over and over again as part of
14 learning what the tests measure and what relevant data it
15 provides to you in your training and based upon that
16 experience I chose tests that would address these areas,
17 but you don't need to keep giving the same test in
18 different forms if you have sufficient data to document
19 the person's functionablity.

20 Q Is there a format or a recommended format or an
21 order in which these -- or even something to guide your
22 selection of these tests that you're aware of? In other
23 words, you selected two out of the nine, is there any
24 guideline or direction which says that you shall give all
25 of them or you shall give a certain number of them?

1 A No, not at all. In fact, the two that I chose
2 are the ones that probably have are more commonly used by
3 neuropsychologists in our country.

4 Q Okay. Would you consider your profession an
5 art involving discretion, where you have discretion and
6 can exercise it and still be a competent thorough
7 psychologist in deciding what tests to give and what not
8 to give?

9 A The field of neuropsychology is based upon
10 science as well as art.

11 Q And on the two that you gave of executive
12 functioning test of Mr. Bradley, on those he performed and
13 what were the -- what was the percentile?

14 A Oh, he had some scores below the first
15 percentile.

16 Q Which is like one in a hundred?

17 A Yes.

18 Q Do that poorly?

19 A Yes.

20 Q With respect to Miss Kerchner and her
21 relationship with Mr. Bradley at the time, he was in love
22 with her, he thought she was pregnant with his child?

23 A Yes.

24 Q And which turned out to be a lie which she told
25 Mr. Bradley?

1 A Yes.

2 Q And he was concerned for her wellbeing, he felt
3 the need to be protective for her, you indicated that?

4 A Yes.

5 Q Okay. Would that be the same -- put her in the
6 same category as an authority figure?

7 A Not necessarily but again being his passive
8 dependents personality in which his primary means of
9 reinforcement and support is through the relationship of
10 another person, it would make her value to him even
11 higher.

12 Q If he complied to her requests, would that be
13 the same as acquiescing to an authority figure?

14 A No, it's not, it's a different type of
15 relationship.

16 Q Was it clear to you in your -- when Mr. Bradley
17 related to you what happened at the EconoLodge what
18 exactly he carried out, if anything, and when?

19 A No, it wasn't completely clear except that he
20 engaged in that type of behavior.

21 Q What -- okay. All right. And when you were
22 asked about the truck striking and Mr. -- when Mr. Bradley
23 pulled out and struck one of the maintenance persons, were
24 you made aware of reading any report that the maintenance
25 person was actually struck or was it more of a brushing or

1 the maintenance man jumping out of the way?

2 A Again, reviewing the police records and
3 statements, it's my understanding that one of the persons
4 actually got in front of the vehicle to try to make it
5 stop and he swerved out of the way and I think he hit
6 something as he was leaving, garbage cans or something as
7 well.

8 Q Now, having eyeballed, for lack of a better way
9 to put it, face-to-face contact with Mr. Bradley for how
10 many hours, seven?

11 A Six.

12 Q Six over two sessions with Bradley and after
13 administering the malingering tests, that test for whether
14 a person is trying to be deceptive in portraying mental
15 illness and the component of the -- I believe the ways --
16 the Miranda --

17 A Yes.

18 Q -- has a malingering component?

19 A Correct.

20 Q Based upon those -- the data you collected from
21 those, are you still of the opinion to a degree of
22 psychological certainty that Mr. Bradley was making no
23 attempt to fake bad or to deceive you as to his mental
24 health issues?

25 A No, I have -- I have no belief whatsoever that

1 he was trying to manipulate, trying to fake bad or lie or
2 dissimulate to me.

3 Q And is it still your belief that at the time of
4 the shooting that Mr. Bradley was acting under the strain
5 of mental or emotional disturbance?

6 A Yes, it is.

7 Q And that his ability to appreciate the
8 criminality of his conduct in conformance with the law was
9 substantially impaired?

10 A Absolutely, his behavior was consistent with
11 escape which we see in very primitive animals all the time
12 versus the reasonable goal directed behavior that we see
13 in higher functioning. Escape from an adverse
14 situations versus a goal planned activity.

15 Q Given what you know and all you considered, is
16 it still your opinion to a degree of psychological
17 certainty that at the time of the shooting Mr. Bradley's
18 ability for cool, calm reflection was significantly
19 impaired?

20 A Yes.

21 MR. MOORE: No further questions.

22 THE COURT: Okay. Recross by the State.

23 MR. BROWN: Yes, Your Honor.

24

25

REXCROSS EXAMINATION

1
2 BY MR. BROWN:

3 Q Dr. Olander, I want to focus on your testimony
4 on the redirect concerning the defendant's car crash on
5 March 6th, 2012. You indicated you reviewed the police
6 records and you also -- they had no indication from those
7 or from any records of any medical treatment, right?

8 A Treatment, no, I was -- I'm not aware that he
9 was treated for any specific injury.

10 Q You reviewed the John E. Polk Correctional
11 Facility records, correct?

12 A Yes.

13 Q And are you aware that as early as March 9th he
14 was complaining about his left hand being swollen and very
15 painful, March 9th, 2012? I can show you the record if
16 you'd like to see it.

17 A I don't recall it.

18 Q Doctor, first I want to show you a document
19 nurse sick call 3/9/12.

20 A All right.

21 Q You can see at the top John E. Polk
22 Correctional Facility, correct?

23 A Yes.

24 Q Isn't it true now seeing that record that March
25 9th, 2012, in the morning he was complaining about left

1 hand being swollen and very painful?

2 A Yes.

3 Q Do you recall reviewing in the records with him
4 being x-rayed and the radiology report?

5 A No. No, I don't -- often as a psychologist
6 they don't release medical records to me. So, no, I've
7 not seen it.

8 Q So, in the packet of records that's John E.
9 Polk that contains all this, you're claiming you've never
10 seen the radiology report where on March 12th the
11 defendant had a fractured hand?

12 A I'm testifying that I do not recall seeing it.
13 I do not recall seeing it.

14 Q But you do -- one of things that you do is you
15 do try to look through the jail records to see if there's
16 any indication of injuries, correct.

17 A Of significant events, yes.

18 Q And you would agree that he was complaining of
19 injuries after his car crash that included the fractured
20 hand?

21 A Yes.

22 MR. BROWN: Nothing further, Your Honor.

23 MR. MOORE: May I?

24 THE COURT: Are you asking for?

25 MR. MOORE: No, I'm just going to ask a few

1 more questions, it won't take long.

2 THE COURT: Okay, I'll allow it.

3 FURTHER REDIRECT EXAMINATION

4 BY MR. MOORE:

5 Q Doctor, when I asked you about the medical
6 records I asked about head injuries, did I not?

7 A Yes.

8 Q Did I ask -- were you asked to -- when you look
9 at the records for any type of injuries?

10 A No, I do not recall that, no. No.

11 MR. MOORE: Thank you.

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

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

16 THE COURT: Okay. At this time it would
17 appropriate for us to take a break. I'm going to try
18 to take just a ten minute break. So, court will
19 be -- during this break you must continue to abide by
20 the rules governing your service as a juror. So,
21 court will be in recess for ten minutes. 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. Please be seated.

1 Mr. Pirolo, is it the intention to call Mr. McAndrew
2 next?

3 MR. PIROLO: Yes, Your Honor.

4 THE COURT: Okay. So, I want to take a brief
5 recess and address that issue and then court will be
6 back in ten minutes. Okay. Thank you. Court's in
7 recess for ten minutes.

8 (Thereupon, a short recess was taken in the
9 proceedings.)

10 THE COURT: Okay. We can bring out
11 Mr. Bradley.

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

14 THE COURT: Okay. You can be seated.
15 Mr. Moore, with regard to the testimony of Ron
16 McAndrew, am I clear in that you are not offering his
17 testimony in mitigation? You said it's not
18 mitigation, it's offered as an expert on prison life.

19 MR. MOORE: It's not -- we'll, I'm not
20 (unintelligible) just because I believe that the
21 definition of mitigation could be the circumstances
22 of the case would be broad enough to include the
23 sentence, that's a circumstance of the case, and what
24 is entailed in the sentence, that's one reason for
25 it.

1 Another reason is this would inform the jury --
2 there's no specific category to put it in other than
3 informing the jury about what it means to get a life
4 without parole sentence. It's meaningless and they
5 can only speculate about it and if they're asked to
6 choose between the two, they shouldn't be in that
7 position where they're just trying to imagine what
8 it's like really when they don't know when they could
9 be told. It's not like a situation where we had just
10 come up with this witness all of a sudden,
11 Mr. McAndrew in plenty of time and I think and I
12 think the State --

13 THE COURT: Okay. I don't think that's the
14 issue. I think the issue is, you know, if he were to
15 testify, I mean, ideally the State could present
16 testimony that in prison he has these benefits and he
17 has that benefit and he can see his family and Deputy
18 Pill can't see her family anymore or they can't see
19 her and you kind of open the door for all kinds of
20 different rebuttal testimony to that.

21 MR. MOORE: Well, if it's focused -- what we're
22 focusing on is prison life and that doesn't open up
23 (unintelligible) to do analysis of what it means in
24 terms of (unintelligible). They could, I agree,
25 bring in their own expert to talk about prison like

1 somebody who's qualified as Mr. McAndrew. In fact he
2 just testified in a death penalty case in Broward
3 County three weeks ago as a prison expert, that's
4 about the twelfth time that he's done it, and he's
5 testified in federal court as well as a prison expert
6 and prison conditions and so it's about bringing in
7 somebody who's qualified, we can prove that he's an
8 expert who's been permitted to testify and he is has
9 testified on these issues and he is an expert and the
10 State could find its own expert to talk about prison
11 conditions had they chosen to do that.

12 THE COURT: Okay. Mr. McMaster, did you have
13 something else?

14 MR. MCMASTER: Well, Judge, I actually was not
15 aware of the witness. Mr. Pirolo did give us a copy
16 of the supplement defense witness list that was filed
17 on January 31st. I would note that he was not
18 designated as an expert. There's nothing indicating
19 that he was going to be providing expert testimony.
20 We were not provided with any CV or historical
21 information about him to qualify him as an expert.

22 But more relevant, Judge, we did some research
23 trying to find some cases on this issue. I found two
24 opinions, it's actually one case from the Supreme
25 Court which is Troy versus State of Florida first on

1 direct appeal and later on --

2 THE COURT: We actually addressed that case but
3 go ahead.

4 MR. MCMASTER: The direct appeal is at 948
5 So.2d 635 and there the trial court excluded the
6 testimony of a Department of Corrections official,
7 Michael Gilmore, who was an assistant warden in Polk
8 County Correctional Institute who in his proffer
9 indicated he was going to testify about what life
10 would be like to the defendant and how he could
11 (unintelligible) in prison, how it might beneficial.
12 In upholding the trial court's decision to exclude
13 his testimony, the Supreme Court, Florida Supreme
14 Court said further Gilmore had never met Troy nor had
15 he ever Troy during one of his periods of
16 incarceration making his potential assessment
17 regarding Troy's possible prison experience entirely
18 speculative. So, when considered in connection with
19 the entire penalty phase, they found no error in
20 excluding the testimony.

21 That case was again revisited by the Florida
22 supreme Court in 2011 at 57 So.3d 828. There the
23 defendant this time taking the tactic of ineffective
24 assistance of counsel for the attorney's failure to
25 properly get the witness to go over the individual

1 defendant's prison records so he could talk about
2 that individual defendant's experience in prison.
3 Once again found no error in trial counsel's failure
4 to properly prepare the witness.

5 I believe what we have here is essentially the
6 same situation, Judge. This witness is not a witness
7 who's going to testify not about this particular
8 defendant, not about any kind of mitigating
9 circumstances as they are defined in the jury
10 instructions but rather just about what prison life
11 may be as Mr. Moore put it, I don't remember exactly
12 what the wording was, but pretty nasty things. We
13 think that the Defense would properly argue to the
14 jury that he is not eligible for parole, he will be
15 in prison until the end of his life which the State
16 has repeatedly told the jury and this witness'
17 testimony is (unintelligible).

18 THE COURT: Okay. Anything else from the
19 Defense?

20 MR. MOORE: I don't have a copy of that case,
21 I'm trying to pull it up. We were talking as we have
22 been with all of our experts in terms of profile,
23 that the defendant -- if a person has a certain
24 neurological presentation as demonstrated through
25 neurological imaging and one could expect

1 (unintelligible), doesn't have to in consider it,
2 that although the jury has a connection because Mr.
3 Bradley has that profile, but we're talking in terms
4 of profile.

5 Also with the neuropsych testing we're talking
6 about the person (unintelligible) you can predict
7 these things and so -- and also we're not -- we're
8 not saying that Mr. Bradley per se will expect that
9 he would for sure with any degree of certainty will
10 actually be predicting his future, what we are saying
11 is a person with his profile may expect certain
12 things and that's where Mr. McAndrew is an expert.
13 Somebody of Mr. Bradley's size, his mental
14 impairment, his age, his experience level with the
15 prison system and the classification and process that
16 the prison system undertakes in deciding where to put
17 such a person, what precautions need to be taken to
18 guarantee that person's safety and security, and what
19 type of response, and Mr. McAndrew knows from
20 personal experience and training and his indication
21 in the prison system, that what kind of response the
22 correctional officers might be expected to provide
23 for Mr. Bradley given that one of their own has been
24 killed by him.

25 And so, you know, Mr. McAndrew is an expert in

1 this area. He is not just somebody who worked in the
2 prison system in a low level, he's been very popular
3 and he has testified numerous times about these
4 issues in death penalty cases. And not having read
5 the Troy case, I've listened to what Mr. McMaster was
6 referring to, it's not error to exclude it but it's
7 not -- it's not something that shall be excluded,
8 it's in your discretion. Without the jury knowing
9 the full extent of what an expert in the prison
10 system refers to and describes as what a sentence
11 life without parole sentence is, the jury is not
12 making an informed decision in deciding guilt or
13 punishment. That's not fair to the State or the
14 defendant and the basis of it is, well, you know, the
15 constitutional grounds, the Florida Constitution
16 Article 1, Sections 2, 9, 12, 16, 17, 22, 23,24 and
17 in the Federal Constitution Amendments 5, 6, 8 and
18 14. So, we're talking about the fairness. We're
19 talking about informing the jury to make a fully
20 informed decision. It's within the Court's
21 discretion, there is no cases.

22 THE COURT: Okay.

23 MR. MOORE: I'm going to ask to proffer his
24 testimony so the Court can hear it and -- regardless
25 of the ruling in order to preserve it.

1 THE COURT: Okay. Court finds that there's no
2 authority to support letting this witness testify.
3 It appears somewhat speculative in nature. It's not
4 offered for mitigation, it's not offered for
5 aggravation.

6 MR. MOORE: Your Honor, I'm not saying it's
7 offered for mitigation.

8 THE COURT: Well, it appears to me that it's
9 not -- to the Court that it's not mitigation. I
10 understand that you previously said it wasn't
11 mitigation but now you're saying it may be
12 mitigation, but it doesn't appear to me, the Court,
13 that it's mitigation. So, I'm going to find that
14 it's not relevant and not allow the testimony of
15 Mr. McAndrew. Okay.

16 MR. MOORE: Permission to proffer his
17 testimony.

18 THE COURT: Okay. We can do that at another
19 time. I don't want to keep the jury waiting with all
20 due respect.

21 MR. MOORE: The State of Florida is paying for
22 his time, just a consideration as well.

23 THE COURT: Well, I would -- I don't want to
24 keep the jurors waiting, we can do it -- I'll do it
25 sometime this morning. We can do it -- but I don't

1 want to do it at this moment.

2 Okay. Mr. Moore, do we have the next witness
3 ready?

4 MR. MOORE: We do.

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

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

9 THE COURT: Please be seated. Ladies and
10 gentlemen of the jury, thank you for your patient. I
11 said that would be a short recess and it was longer
12 than I anticipated. We did address a matter that we
13 needed to do address outside your presence so that
14 took longer than I anticipated but thank you for your
15 patience.

16 Okay. Who would be the next witness on behalf
17 of the Defense?

18 MR. MOORE: Carrie Ellison.

19 THE COURT: What's the first name?

20 MR. MOORE: Carrie, C-A-R-R-I-E, Ellison.

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

23 THEREUPON,

24 CARRIE ELLISON,

25 having been first duly sworn, was examined and testified

1 upon her oath as follows:

2 THE COURT: If you'll please be seated in the
3 witness chair. And once seated if you'll scoot that
4 chair forward. Do adjust that microphone to fit you.
5 Do talk into that microphone, it helps everyone hear
6 your testimony and it also aids in recording your
7 testimony. I can already tell you're going to be too
8 far away from the microphone so talk to the
9 microphone if you can. We need everyone in the back
10 to be able to hear you. Okay. Thanks. Okay.
11 Mr. Moore.

12 DIRECT EXAMINATION

13 BY MR. MOORE:

14 Q Good morning, Miss Ellison.

15 A Good morning.

16 Q How are you?

17 A Nervous.

18 Q Yeah, I understand.

19 Okay. State your full name, please.

20 A Carry Ann Marie Ellison.

21 Q I'm going to ask you questions and when you
22 answer them talk to the jury. Okay. They want to hear
23 what you have to say. You're doing fine with volume but
24 just remember to keep your voice up.

25 A Okay.

1 Q Do you know Brandon Bradley?

2 A Yes.

3 Q How do you know Brandon Bradley?

4 A We use to date.

5 Q Do you see him in the courtroom?

6 A Yes.

7 Q Seated right where I'm pointing?

8 A Yes.

9 Q You're working now, right.

10 A Um-hmm.

11 Q Where do you work?

12 A I'm assistant manager at the Cita Mission.

13 Q That's in Melbourne?

14 A Yes.

15 Q Were you working at the time you met

16 Mr. Bradley?

17 A Yes.

18 Q Where were you working?

19 A I was manager at a Mobile gas station.

20 Q And so for what period of time did you have a

21 relationship with Mr. Bradley?

22 A We were on and off for maybe a year and a half.

23 Q Dating?

24 A Um-hmm.

25 Q Okay. Did you ever live together?

1 A No.

2 Q And to what degree would you -- how would you
3 categorize your feelings for Mr. Bradley? How did they --
4 what did they develop into?

5 A I loved him.

6 Q Okay. And were you with him every day?

7 A No, but maybe every other day, every couple
8 days.

9 Q Was it -- when was it that you met Mr. Bradley?

10 A June 2010.

11 Q Okay. And what was his relationship with his
12 mother and siblings like? Did you -- first of all, did
13 you spend time with Mr. Bradley in the company of his
14 family?

15 A Some of his family, yes.

16 Q Which members of the family did you see with
17 Mr. Bradley?

18 A His brother, his cousins, his grandmother, and
19 a couple of his aunts.

20 Q A mother?

21 A Not at that time, no.

22 Q Stepfather.

23 A No.

24 Q And what -- what was your -- what was your
25 impression of Mr. Bradley? What was he like?

1 A He treated me really well. He was never
2 argumentative, he never was rude or mean to me, he treated
3 me really well. He treated his family the same way. If
4 he cared about you he would whatever for you if you needed
5 it.

6 Q Did he support people?

7 A Yes.

8 Q I mean financially?

9 A Yes.

10 Q And who did he -- talk about money, who did you
11 give money to?

12 A His cousin he lived with, he paid rent, he paid
13 their rent, his mother I know of, his -- some of his other
14 family members if they needed anything and he had the
15 money he would give it to them no hesitation.

16 Q Was he -- would you describe him as being a
17 protective person and if so why?

18 A Yes. I mean, for me or for?

19 Q Anybody. You, anybody?

20 A Yes, if he cared about you he's going to be
21 protective of you.

22 Q Was he protective of you?

23 A Yes.

24 Q And specifically can you think of instances
25 when he was?

1 A Yes. There was a man that actually put his
2 hands on me outside of kind of like a night club lounge
3 and I called Brandon and he said he was on his way to come
4 take care of it like, you know, because he took my face
5 and smashed into a car window multiple times.

6 Q Who did?

7 A This man.

8 Q Not Brandon?

9 A Not Brandon, no, no, no, but Brandon was going
10 to come protect me from him. He was like I'm on my way
11 right now, where are you, you know, like. It meant a lot
12 to me knowing that if somebody is hurting me that I can
13 call him and he'll come help me.

14 Q Now, Mr. Bradley, what kind of an area was
15 Mr. Bradley living in at that time?

16 A Eau Gallie on Aurora.

17 Q Is that an area referred to as up top?

18 A Yes.

19 Q What kind of an area is it?

20 A It's known for drugs.

21 Q Kind of a rough area?

22 A Um-hmm.

23 Q Now, was there a time when Mr. Bradley began to
24 change?

25 A Yes.

1 Q And when -- when was that? You know that this
2 case is about a shooting --

3 A Yes.

4 Q -- in March of 2012?

5 A Yes.

6 Q So, when did you notice changes in Mr. Bradley?

7 A Well, initially his -- one of cousins was
8 killed and it affected him heavily.

9 Q Well, let's talk about when that was. Was
10 that -- back it up from March the 6th of 2012, was it a
11 six month time period?

12 A I think it was 2011.

13 Q That's -- all right. 2011. So, when in 2011
14 did you notice the changes in which you associated with
15 the death of a cousin?

16 A It was in November, I know that.

17 Q 2011?

18 A I believe, yes.

19 Q And was that Travontey Williams?

20 A Yes.

21 Q What happened there with Mr. Williams and how
22 did that affect Mr. Bradley?

23 A He was murdered and Brandon was heavily
24 distraught. Him and his cousins, I was around them and
25 when a family member dies you're all impacted heavily, you

1 know. And then the same day of the funeral I actually
2 miscarried our child.

3 Q Your child with whom?

4 A Brandon. And I couldn't get ahold of him and
5 when I did -- I knew he was at the funeral but I was still
6 calling him and that just kind of set -- sent him just --
7 not -- didn't send him over the edge but he just kind of
8 went numb. I could tell he just like withdrew, he was
9 just like what's going on, you know, it's too much to deal
10 with at one time.

11 Q You say he withdrew, what do you mean he
12 withdrew?

13 A Well, I didn't see him for a few days, he was
14 just -- I think the whole situation was too much for him
15 to handle at that moment in time losing his cousin and
16 then losing your child as well, he just -- we didn't talk
17 for a couple of days and then we kind of dealt with the
18 emotions and pains of it together after that but.

19 Q Well, the after that part and the effects that
20 it appeared to have on him, the miscarriage and the death
21 of Mr. Williams, how would you describe the -- what you
22 observed of his mental health, his mental stability from
23 that point in time which as you say about November of 2011
24 until March of 2012?

25 A He started using drugs more heavily, more

1 prevalently, wasn't eating much, he just I guess was
2 trying to numb himself from feeling any of the pains.

3 Q How was he -- what was he like with other
4 people, I mean, trustful, was he distrustful, what was he?

5 A He was trustful.

6 Q Did he seem to --

7 A I trusted him.

8 Q Well, I mean, did he seem to be paranoid in any
9 way?

10 A Eventually, yes.

11 Q Okay. When and describe what you observed.

12 A More the paranoid was probably about six months
13 to this incident.

14 Q Before this incident?

15 A Yes, I started noticing it.

16 Q Did you notice whether he started to carry a
17 gun?

18 A Yes.

19 Q And when was that?

20 A Probably about six months. Like I said, he
21 started thinking people were after him and he was carrying
22 a gun to protect himself.

23 Q Was there anything in particular that he said
24 he was protecting himself from?

25 A He did tell me there was somebody he knew in

1 Cocoa that was after him, that he had a hit on his head,
2 you know, so he wanted to have protection from that in
3 case it happened.

4 Q Was he -- was he confident that he could figure
5 out peoples motives?

6 A I don't know confident, I just know he felt
7 more so that people were -- he didn't know what peoples
8 motives were with him, he didn't -- if he didn't know you
9 he didn't really trust you, he didn't know if you were out
10 to get him or not.

11 Q Okay. So, were you observing this behavior in
12 Mr. Bradley?

13 A Yes.

14 Q During that six month period of time.

15 A Yes.

16 Q Were you dating women with him at that time?

17 A No, but we were still close and -- we always
18 remained close, talked frequently and so I saw a lot of
19 changes in his behavior, I think it stemmed more so from
20 the drugs than anything.

21 Q Can you think of examples of when he seemed
22 to -- his fear of people or paranoia seemed to be maybe
23 not tight with reality like, you know, if you were in the
24 store with him, did you ever run into a situation like
25 that?

1 A Yeah. Sorry. There was a man, we were at a
2 gas station and he was just looking around and --

3 Q Who was?

4 A The man at the gas station. And Brandon
5 thought that he was looking at him funny. He's like is
6 that guy looking at me weird, I was like no, he's just
7 looking around. He's like I don't know why he's looking
8 at me like that and I was like he's not, he's just a
9 normal -- he's not looking at you in any kind of way. He
10 didn't really go further into it but it was kind of odd
11 for me to -- why he was thinking this guy might have some
12 kind -- something against him, didn't even know him.

13 Q Was his behavior, his distrust of people, his
14 concern about people out to get him, was that like the
15 Brandon Bradley that you knew before your miscarriage?

16 A No.

17 Q And the death of Travon Williams?

18 A No.

19 Q Travontey Williams.

20 Okay. And did he mention that -- anything
21 about his cousins being killed or his belief that they had
22 been killed by law enforcement officers?

23 A I don't recall exactly if he said killed but I
24 know that I've been told that several members of his
25 family have been used excessive force against by police

1 officers.

2 Q And what was Mr. Bradley's attitude during that
3 time let's say six months before March 2012 toward police
4 officers?

5 A We didn't really discuss it, we weren't
6 discussing police officers as a frequent conversation.

7 Q Is there a way that he perceived that they
8 treated his friends his family?

9 A He wasn't fond of police officers, I wouldn't
10 say he hated them but I know as I was told from him that
11 they had been excessively rough with him as well, he
12 didn't really want contact with them for any reason
13 because he feared that they would do it again, they tased
14 him and beat him.

15 Q Now, he -- you knew about the warrants?

16 A Um-hmm.

17 Q That he had warrants and he knew about the
18 warrants?

19 A Yes.

20 Q Did you urge him to turn himself in?

21 A Yes.

22 Q And what was his response about being wanted?

23 A He knew it but he told me he wasn't ready to
24 turn himself in yet and that he would when he was ready.

25 Q What -- did he tell you what he would do if he

1 was arrested?

2 A He said he would go and do his time.

3 Q Did he say ever anything about wanting to hurt
4 or kill a police officer?

5 A No.

6 Q And was this something that came up more than
7 once or just on one occasion?

8 A I think just once, maybe two times, but it was
9 the same thing if it was multiple times, he never ever
10 said he would ever hurt a police officer if it came down
11 to that for him to go.

12 Q Now, during the period of time before he began
13 to change, was he smoking marijuana?

14 A Yes.

15 Q And what was the quantity that you observed
16 that he was smoking; how frequently, how much?

17 A Several times a day, maybe four cigar blunts.

18 Q Blunts?

19 A Yeah, in a day.

20 Q What's a blunt?

21 A Like a cigar.

22 Q Size joint?

23 A Yeah, marijuana.

24 Q How many -- you know what a joint looks like,
25 about the size of my index finger, would that be about

1 right?

2 A Probably like this.

3 Q Okay. Would it be thicker?

4 A Not that thick but probably about the size of
5 your finger like in diameter.

6 Q And how many of those a day?

7 A Maybe four.

8 MR. MOORE: No further questions.

9 THE WITNESS: Okay.

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

12 CROSS EXAMINATION

13 BY MR. MCMASTER:

14 Q Miss Ellison, you started dating Mr. Bradley in
15 June of 2010?

16 A Um-hmm.

17 Q Is that shortly after he got out of prison?

18 A Yes.

19 Q And you were aware that he was on probation at
20 that time?

21 A Yes.

22 Q Now, he reported to probation for about six
23 months, didn't he?

24 A Yes, I took him several times.

25 Q And he decided to stop reporting?

1 A Yes.

2 Q And it was early of 2011?

3 A I believe so.

4 Q So, for that six month period that you're
5 talking about where he started carrying a gun and thinking
6 people were after him, he knew in fact people were after
7 him, didn't he?

8 A Yes, I wouldn't say it was just police but it
9 was more so just normal people. I think it stemmed more
10 so from the man that he said was trying to kill him from
11 Cocoa that he was carrying the weapon. I don't if it
12 really pertained to every single person in the world but I
13 know he was generally fearful for his life.

14 Q And he never once said anything to you about he
15 was not going back to prison?

16 A No, sir.

17 Q Did he look forward to going back to prison?

18 A No, that's why he didn't want to turn himself
19 in.

20 Q And how often would he carry the gun?

21 A Not every time I saw him but several times. I
22 mean, I saw him more than one occasion.

23 Q What kind of gun did he carry?

24 A It was a Glock forty I think.

25 Q Where did he keep it?

1 A In his cousin's apartment.

2 Q How about when he was carrying it where did he
3 keep it?

4 A In his pants.

5 MR. MCMASTER: No further questions.

6 THE COURT: Okay. Redirect by the Defense.

7 REDIRECT EXAMINATION

8 BY MR. MOORE:

9 Q Miss Ellison, before Mr. Bradley started
10 carrying a gun which you indicated it was around November,
11 is that right?

12 A A little after, it wasn't like immediately
13 after everything happened.

14 Q So, you were dating Mr. Bradley for about a
15 year and a half before that time, right?

16 A On and off maybe a year.

17 Q Did you carry a gun during that period of time?

18 A No.

19 Q Are you sure?

20 A Yes. I was with him more frequently and I
21 never once saw a gun, never -- we stayed the night
22 together a lot, he never pulled it out of his clothes, he
23 never had a gun.

24 Q You've rode in a car with him?

25 A Yes, never had a gun.

1 Q Saw him (unintelligible)?

2 A Um-hmm.

3 Q And the first you saw the gun during that
4 period of time?

5 A No, sir.

6 Q You think you would have known that he had one?

7 A Yeah.

8 MR. MOORE: Nothing further.

9 THE COURT: Okay. Recross by the State.

10 MR. MCMASTER: Nothing.

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

13 THE WITNESS: Thank you.

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

16 THE COURT: Okay. Other witnesses on behalf
17 the Defense.

18 MR. MOORE: Keith Nelson.

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

21 THEREUPON,

22 LAWRENCE KEITH NELSON,
23 having been first duly sworn, was examined and testified
24 upon his oath as follows:

25 THE COURT: Okay. Sir, please be seated in the

1 witness chair. Once seated if you'll scoot that
2 chair forward. Do adjust that microphone to fit you.
3 Do talk into the microphone. Okay. Mr. Moore.

4 DIRECT EXAMINATION

5 BY MR. MOORE:

6 Q What is your name?

7 A Lawrence Keith Nelson.

8 Q Mr. Nelson, what is your relationship to
9 Brandon Bradley?

10 A Brother, half brother.

11 Q You have different fathers.

12 A Different fathers, same mother.

13 Q How many boys -- how many brothers in your
14 family?

15 A On my dad's side I have an older sister and two
16 younger brothers and a younger sister and on my mom's side
17 I have an older brother, Brandon, and a younger sister.

18 Q Okay. And which house did you grow up?

19 A In my mother's house.

20 Q That would be Brandon's mother?

21 A Brandon's mother.

22 Q You and Brandon have different fathers?

23 A Different fathers.

24 Q And you have and older brother Anthony?

25 A Yes, that's my biological brother.

1 Q And he's got the same father as you?

2 A Same father.

3 Q And was there a time when your mother married
4 somebody who was neither your father or Tony's or
5 Brandon's father?

6 A Yes, there is.

7 Q And he would have been your stepfather?

8 A Stepfather.

9 Q Okay. And that would not -- and that would not
10 be Brandon's father either?

11 A No.

12 Q You have a sister?

13 A Yes.

14 Q And he was -- this man your mother married, the
15 stepdad, he is the father of your half sister?

16 A Yes.

17 Q Okay. And you are twenty-eight?

18 A Twenty-eight, yes, sir.

19 Q Okay. Are you working now?

20 A Yes.

21 Q Where do you work?

22 A Ocean Spray Carwash.

23 Q How long have you been there?

24 A Eight years.

25 Q And what is your relationship with Brandon, are

1 you close or not?

2 A It was in between.

3 Q And what was your -- did you get to know your
4 stepfather very well?

5 A Kind of but not really.

6 Q Did you -- was there a time when you lived with
7 your mom, your stepdad, Brandon and your brother Tony?

8 A Yes.

9 Q You all lived in the same house?

10 A Yes.

11 Q Okay. And was there a time when you moved out?

12 A Yes.

13 Q When -- and when was that, how old were you?

14 A I moved out for the summer, it wasn't like
15 officially out but I moved in with a friend because I was
16 doing football at the time and that was like '02, '03, I
17 was still in high school.

18 Q And so how old would you have been high school,
19 you say about seventeen, eighteen?

20 A Probably -- at that time I was probably
21 fifteen.

22 Q So, Brandon would have been about eleven?

23 A Yes.

24 Q Okay. And during the time before you moved
25 out, how did your stepfather treat your mother?

1 A He treated her good in the beginning and then
2 he just kind of, you know.

3 Q Kind of what?

4 A Went off the deep end sometimes.

5 Q Well, what did he do? Did he drink?

6 A Yes, he drank heavily.

7 Q How would that affect him -- how would that
8 affect his personality when he'd drink?

9 A He tend to get violent, he would, you know, say
10 things, he was verbally and mentally abusive, he would --
11 if you didn't move fast enough he'd punch you, you know,
12 things like that.

13 Q Punch kids, his kids?

14 A Yeah. Oh, yeah.

15 Q Punch eleven year old Brandon?

16 A Yeah, everyone.

17 Q Where would he hit him?

18 A Face, legs, he had a belt, whatever he could
19 get his hands on he would use, it's because we weren't his
20 kids.

21 Q Was that something that you knew for a fact was
22 the reason why he treated you like that?

23 A Oh, yeah, he'd say it all the time.

24 Q What would he say?

25 A He would say you're not my kids, I don't want

1 you living here, you're not my kids, I don't care about
2 you.

3 Q Would he say that to Brandon?

4 A Everybody. Yes, Brandon, me, Ellen.

5 Q And that was from the time that he moved in or
6 was that later after he moved in?

7 A It was from the time he actually kind of met us
8 when we were kids he really didn't enjoy our company I
9 guess you could say.

10 Q All right. So, when he got drunk, are saying
11 he was more violent prone, violence prone?

12 A Oh, yeah, definitely.

13 Q And who was on -- mostly on the receiving end
14 of the violence?

15 A I would say Brandon just because he didn't
16 approve of his lifestyle so he figured, you know, I can do
17 whatever because I'm not your father, so.

18 Q In terms of the physical abuse, let's talk
19 about your mom. When he got drunk and he went after your
20 mother, what would his behavior towards your mother be?
21 What would he do?

22 A He'd push her, he'd shover her and punch her,
23 you know. We would try to defend her but at the same time
24 you're kind of scared for your life because you don't want
25 to get beat up either or, you know.

1 Q And was there ever a time when you -- one of
2 you called the police?

3 A I actually ran away from home because it was
4 getting so bad.

5 Q That's why you left home?

6 A That's why I left home.

7 Q And did you think to call the police or call
8 the Division of Children and Family, you know, the state
9 welfare agency, did you think to do that?

10 A Actually they did. When I ran away from home
11 they called them, they made me go back home and live with
12 the guy and get beat up even more because the system
13 didn't care I guess.

14 Q When you talk about getting beat up, is that
15 just like a swat with an open hand on the back side or?

16 A Oh, no, I'm talking about closed fights,
17 physical fights like with this guy at the age of twelve,
18 thirteen, fourteen years old.

19 Q That's between you and him?

20 A Yeah.

21 Q And did you see the same with Brandon?

22 A Yes.

23 Q How often would you see that?

24 A I wasn't there too much but when I was there it
25 was, it was often.

1 Q When you were there was it like once a month,
2 was it like weekly, daily?

3 A Oh, I was there at least once or twice a week
4 definitely.

5 Q Would it usually happen when you were there or
6 not?

7 A Yes, because he --

8 Q Did he ever -- did he ever use objects to beat
9 you, Tony, Brandon --

10 A Yes.

11 Q -- with? What?

12 A He use to make us cut these palm fronds and he
13 would make you go get them and then come back and use them
14 on you. So, you're kind of mentally, you know, already
15 down and then you get the physical part of it so you're on
16 both ends of it and you're scared.

17 Q And would he just use one palm frond or more?

18 A No, it was more than one. It was definitely
19 more than one.

20 Q I mean at any one time?

21 A No, it was just one at a time but it was
22 multiple palm fronds.

23 Q Did he ever tape them together?

24 A It's possible. I mean.

25 Q Just asking what you remember.

1 A It's possible, very possible.

2 Q And so would he just hit you with that like
3 once?

4 A No. Oh, no, until he got tired.

5 Q And this was usually when he was drunk?

6 A Usually when he was drunk. There were sober
7 times he did it too just out of spite I guess.

8 Q What were the reasons for the beatings?

9 A Some of them we deserved, I can't, you know,
10 paint a picture of him as being this bad guy but other
11 ones was just out of spite like I said, we weren't his
12 kids so he didn't really care for us too much.

13 Q So, even though there were times when you or
14 Brandon or Tony didn't do anything that deserved a
15 physical punishment, you would get it?

16 A Sometimes, yeah, he just walk on you and punch
17 you in the face for no reason.

18 Q And Brandon --

19 A Just the kind of guy he is, I don't know.

20 Q Would it ever leave marks on your body?

21 A Yes.

22 Q Would it ever leave marks on Brandon's body?

23 A Yes.

24 Q Would you ever have to go to school with marks
25 on you?

1 A Yeah, I had them on my legs, I had them with
2 pants, you know, you have bruises on your arm you wear
3 coats, ninety degree whether, you know, people want to
4 know why you're wearing, you know, jackets, stuff like
5 that.

6 Q Did you feel like your -- your mom was living
7 at home, did you feel like she was protecting you or tried
8 to protect you?

9 A Not, she didn't try to protect us.

10 Q Do you feel like she chose, made a choice?

11 A Yeah, she chose him over her kids, yes.

12 Q Is that something -- when were you first aware
13 that your mom was making that kind of a choice?

14 A When I think he hit Brandon one time and I
15 tried to defend him and I ended up --

16 Q How old was Brandon then?

17 A During that time probably like thirteen,
18 fourteen.

19 Q And you said you tried to do something?

20 A Oh, yeah, I tried defend him and help him out.

21 Q What happened?

22 A I got beat up too because, you know, I'm a kid,
23 this is a grown man and you're trying to help someone you
24 care about and you're, you know, trying to fight someone
25 that don't care about you. So, you're kind of in -- just

1 like I'm sure she was in limbo should I choose my kids or
2 should I choose this guy that I love, you know.

3 Q Can you tell the jury what effect that has had
4 on you and on Brandon?

5 A I don't trust many people, I really don't, you
6 can't. You suppose to be in a household where, you know,
7 it's all love and happiness but you walk home to beatings
8 and, you know, things like that, you just don't trust
9 people too often. So, I really to this day don't have
10 trust for many people.

11 Q You still love your mom.

12 A Yeah, I love my mom dearly but I don't trust
13 her.

14 Q How do you feel about coming into court and
15 talking about this and acknowledging that your mom didn't
16 stand up for you?

17 A It's hurtful that she brought me into this
18 world, she should be there but it's just what it is.

19 Q What's Brandon like? I mean, you know, you say
20 you're not that close to him, but you do know him you grew
21 up with him, what's he like?

22 A Yeah, he was fun, you know, he's a good dude.
23 He is very caring. As I eluded to earlier, he's very
24 caring, our hole family is, you know, once you earn our
25 trust I guess you could say we'll treat you like you're

1 family, white, black, Asian, whatever.

2 MR. MOORE: No further questions.

3 THE COURT: Okay. Cross examination by the
4 State.

5 CROSS EXAMINATION

6 BY MR. BROWN:

7 Q Mr. Nelson, in talking about the defendant
8 being on the receiving end and you said that he, referring
9 to your stepfather, didn't approve of his lifestyle,
10 Brandon, what do you mean by that?

11 A Well, he was living the fast life I guess you
12 could say.

13 Q Pardon me?

14 A He was living the fast life.

15 Q What do you mean by that, Brandon was living
16 the fast life?

17 A Yes.

18 Q What was the fast life?

19 A Every now and then he would get in trouble, you
20 know, he wanted the girls, you know, all that stuff, the
21 cars. So, I guess he didn't approve of that, he wanted to
22 be in a working household and, you know, for us follow his
23 footsteps I guess or something.

24 Q So, he didn't approve of Brandon out running
25 around and drugs and some of the beatings were for that?

1 A Sometime, yeah.

2 MR. BROWN: Nothing further, Your Honor.

3 THE COURT: Okay. Redirect by the Defense.

4 REDIRECT EXAMINATION

5 BY MR. MOORE:

6 Q What's the first time you remember your stepdad
7 beating Brandon up? How old was Brandon?

8 A We were young, I can't remember exactly, I
9 would say anywhere from like eight to twelve, in that
10 range.

11 Q That was Brandon's age?

12 A Yeah.

13 Q Was he out running the streets?

14 A No.

15 Q And getting cars and girls at that time?

16 A No.

17 Q Was he living a lifestyle that his stepdad
18 didn't approve of at that time?

19 A No.

20 Q Was there any reason you could see of for the
21 beatings that he got at the age of eight?

22 A No.

23 MR. MOORE: No further questions.

24 THE COURT: Okay. Recross by the State.

25 MR. BROWN: No, Your Honor.

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

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

5 THE COURT: Okay. Other witnesses on behalf of
6 the Defense.

7 MR. MOORE: Anthony Nelson.

8 THE COURT: Okay. Sir, if you'll come forward.
9 Step up before the clerk to be sworn.

10 THEREUPON,

11 ANTHONY NELSON,
12 having been first duly sworn, was examined and testified
13 upon his oath as follows:

14 THE COURT: Sir, if you'll please be seated.
15 Once seated do scoot that chair forward. Do adjust
16 that microphone and do talk into that microphone.

17 DIRECT EXAMINATION

18 BY MR. MOORE:

19 Q Mr. Nelson.

20 A Yes.

21 Q Tell the jury who you are.

22 A I'm Anthony Nelson, I'm Brandon's older
23 brother.

24 Q You're the oldest?

25 A Yes.

1 Q Of the three brothers --

2 A Yes.

3 Q -- that you grew up with?

4 A Yes, sir.

5 Q Your mother is -- your mother is Brandon's
6 mother and the mother of you four kids?

7 A Yes, sir.

8 Q That would include your sister?

9 A Yes, sir.

10 Q And you and Keith have the same father, right?

11 A Yes, sir.

12 Q Brandon has a different father?

13 A Yes, sir.

14 Q Daisy has a different father from the three
15 brothers?

16 A Yes, sir.

17 Q And your mother for a time was married to the
18 father of your sister?

19 A Yes, sir.

20 Q And he was and may still be your stepfather?

21 A Yes, sir.

22 Q Okay. You're thirty?

23 A Yes, sir.

24 Q And are you working now?

25 A No, sir.

1 Q Why aren't you working?

2 A I had a neck injury a couple of years ago, I
3 can hardly work.

4 Q All right. And how old were you when your
5 stepfather married your mother and moved in?

6 A Probably around nine when he first moved in,
7 about nine, ten.

8 Q And so Brandon would have been about three,
9 four?

10 A Yes.

11 Q Is that about right?

12 A Yes.

13 Q Now, when -- what age did you -- and at that
14 point when your stepdad moved in it was your stepdad, your
15 mom, your sister came along later?

16 A Yeah, she wasn't born yet.

17 Q Right. And then you three boys?

18 A Yes.

19 Q Which included Brandon?

20 A Yes.

21 Q Okay. And then do you remember the age you
22 were when you moved out of that home?

23 A Probably around fifteen.

24 Q Why did move out at fifteen?

25 A Just got tired of the beatings and tired of --

1 just tired of everything, couldn't handle it no more. He
2 started rebelling. He started like rebelling and I
3 didn't -- I wasn't caring for that no more.

4 Q And when you talk about the beating, what are
5 you referring to?

6 A Belts, cords, I mainly remember the palmetto
7 branches, palmetto.

8 Q Who was beating you?

9 A My stepfather.

10 Q Was he just beating you?

11 A Beating all of us. He was beating all of us.

12 Q Your sister included.

13 A No, she didn't -- at that age she wasn't
14 getting beatings, it was just us, just me and my brothers.

15 Q Your sister was his daughter?

16 A Yes.

17 Q You three boys weren't his sons?

18 A No.

19 Q Did he ever let you -- remind you of that fact
20 that you weren't his kids?

21 A All the time.

22 Q How would he do that?

23 A Before he beat us he'll let us know you ain't
24 none of mine so I care less for you, I want you -- I
25 really want you out of the house but you're too young to

1 get out of the house.

2 Q When did that type treatment start from your
3 stepdad?

4 A When he moved in, immediately.

5 Q And you're nine years old?

6 A Yeah.

7 Q Brandon's about three or four?

8 A Yeah.

9 Q Now, when did the beatings start?

10 A Short -- probably shortly after he kind of
11 established us and established himself in the house.

12 Q And was he just beating you at that point or
13 was three year old, four year old Brandon also getting
14 beaten?

15 A I can't -- I know me and Keith was getting it a
16 lot but, you know, Brandon was, you know, still three or
17 four so. You know what I mean. I was in school when
18 Brandon use to be home or whatever because he was only
19 three or four so he wouldn't be going to school, but as
20 time went by, you know, five, six Brandon was getting
21 whippings too.

22 Q What sort of think was he getting whippings
23 for?

24 A It varies, you know what I mean. You know, I'm
25 not saying that all of you are perfect or whatever but a

1 lot of this stuff we got we deserved, I can say that.

2 Q Were there times when you got -- the three of
3 you or you or Brandon got more whippings than other times
4 like when he was drinking?

5 A Yeah, especially.

6 Q Especially?

7 A Yeah.

8 Q What was the difference between your stepdad
9 when he was not drinking and when he was drinking?

10 A The beatings -- when he was drinking the
11 beatings went longer.

12 Q Longer?

13 A Yeah.

14 Q Well -- so, describe -- I know -- I hate to
15 ask, you know here we are. When you describe a longer
16 beating, how long -- what would that be like? What would
17 be involved in that, hit you twice as opposed to once?

18 A No, sometimes he'd make us lay on the ground so
19 there won't be no getting up, if we try to get up that's
20 when he go crazy and, you know, he didn't care where he
21 hit you at, face, arm, you know what I mean. Sometime,
22 you know, he'd make us get out of our clothes.

23 Q To do what?

24 A Get out of our clothes.

25 Q Take your clothes off?

1 A Yeah.

2 Q And what would he use to beat you with?

3 A The palmetto branches, the belts, like cord
4 like, whatever, whatever he can get his hands on.

5 Q Brandon too?

6 A Yeah, all of us.

7 Q And sometimes would those beatings be for no
8 reason that you were aware of?

9 A Yeah.

10 Q When's the first time you remember seeing
11 Brandon get beat?

12 A Probably like around five, six.

13 Q Was he a bad, especially a bad boy? I mean,
14 boys are boys.

15 A Brandon wasn't bad at all. Brandon wasn't bad.
16 Brandon wasn't bad. Brandon -- like my brother said, he
17 was happy, always had a smile on his face, but when you
18 got somebody in the house that's constantly beating you,
19 you trying to get away from that and I remember we all use
20 to say I can't wait until I get big so I can leave.

21 Q And so I want to ask about the palmetto fronds,
22 would he just use one, more than one, how would that go?

23

24

25

(CONTINUED TO VOLUME XIV)