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

CASE NO. 2012-CF-35337-A

STATE OF FLORIDA,

Plaintiff,

vs.

BRANDON LEE BRADLEY,

Defendant.

**MOTION TO COMPEL THE STATE TO
FURNISH PENALTY PHASE WITNESS LIST**

The Defendant, BRANDON LEE BRADLEY, pursuant to article I, sections 2, 9, 16, 17 21, 22 and 23 of the Florida Constitution and the Fifth, Sixth, Eighth and Fourteenth Amendments of the United States Constitution, moves this Court to enter an order compelling the State to furnish a penalty phase witness list, and in support thereof states:


1. The Defendant is charged by Indictment with three counts of first degree premeditated murder.
2. The State has filed notice pursuant to Fla.R.Crim.P. 3.202, indicating its intention to seek the death penalty in the above-styled case, therefore the Defendant faces the imposition of the death penalty Pursuant to the provisions of §§775.082 and 921.141, Florida Statutes. §921.141, Florida Statutes, outlines the procedural standards utilized for the purpose of determining what sentence should be imposed in the event the Defendant is found guilty of First Degree Murder. Fla. R. Crim. P. 3.780 contemplates the presentation of testimony at the sentencing portion of the trial, wherein the jury make its recommendations to the presiding judge, as to whether the Defendant should or should not be sentenced to death.
3. The State Attorney's Office furnished to the Defendant an extensive list of witnesses and evidence to be utilized in the trial of the case; however, there is no way to distinguish which, if any, of the named witnesses and evidence will be utilized at the penalty portion of the bifurcated trial.

4. Unless the Defendant is afforded the a list of the names of such witnesses, and their identification as sentencing phase witnesses, with a description of said evidence a sufficient time prior to trial, the Defendant will be unable to determine the appropriateness of rebuttal testimony or to effectively cross-examine the State's witnesses present at trial, all of which is a deprivation of due process of law and his right to a fair trial and effective assistance of counsel, as guaranteed by the Fifth, Sixth, Eighth and Fourteenth Amendments of the United States Constitution, and by article I, sections 2, 9, 16, 17, 21, 22 and 23 of the Florida Constitution.

WHEREFORE the Defendant moves for an Order directing the State to furnish a separate witness list naming all persons, along with the appropriate address of each, who will be used at the penalty phase of the Defendant's trial, as well as a list of the evidence to be used at the penalty phase of the Defendant's trial.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-service to the Office of the State Attorney, Brevard County, Florida, this 8 day of November, 2013.


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