

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY  
CASE NUMBER CRC21-01513CFANO

STATE OF FLORIDA,

Plaintiff,

vs.

Volume II

CORNELIUS TREVON WHITFIELD,

Defendant.

\_\_\_\_\_ /

PROCEEDINGS: MOTION TO SUPPRESS

BEFORE: The Honorable Philip J. Federico  
Circuit Court Judge

DATE: January 14, 2026

PLACE: Courtroom 8  
Pinellas County Justice Center  
14250 - 49th Street North  
Clearwater, Florida 33762

REPORTER: Karen M. Milberg  
Registered Professional Reporter  
Florida Professional Reporter

(Pages 144 to 210)

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**P R O C E E D I N G S**

1  
2 THE COURT: Defense, you had some folks you  
3 needed me to hear from?

4 MR. MCGREEN: That's correct, your Honor.

5 The defense would call Ms. Darleen Hollister.

6 THE BAILIFF: Right this way. Raise your  
7 right hand and receive the oath.

8  
9 THEREUPON,

10 OFFICER DARLENE HOLLISTER,  
11 the witness herein, having been first duly sworn, was  
12 examined and testified as follows:

13  
14 THE COURT: Afternoon.

15 THE WITNESS: Good afternoon, your Honor.

16 **DIRECT EXAMINATION**

17 BY MR. MCGREEN:

18 Q Good afternoon. My name is Lamark.

19 A Okay.

20 Q If I can have you start by stating your name for  
21 the record.

22 A Officer Darlene Hollister. First name,  
23 D-A-R-L-E-N-E; last name, H-O-L-L-I-S-T-E-R.

24 Q And what's your current position with law  
25 enforcement?

1 A My current position is patrol.

2 Q How long have you been on patrol?

3 A For approximately 13 years.

4 Q And with what agency?

5 A St. Petersburg police department.

6 Q Now, I want to talk about your involvement in  
7 the investigation back on February 2, 2021, what  
8 capacity -- were you, at that time, still officer?

9 A Yes.

10 THE BAILIFF: The Blue Man is not on.

11 THE COURT: I got a court reporter, but  
12 thanks.

13 BY MR. MCGREEN:

14 Q Do you have independent recollection of your  
15 involvement in that investigation?

16 A Yes.

17 Q Okay. And did you have body worn camera  
18 activated, capture of your involvement that day, as well?

19 A Yes.

20 Q Was that body worn camera a fair and accurate  
21 depiction of what you saw, did, and observed on that  
22 evening?

23 A Yes.

24 Q Okay. If we can start by having you tell us;  
25 what time did you initially make contact with the Emerald

1 Pointe apartments; do you recall?

2 A I don't recall my exact arrival time. But I was  
3 dispatched just after midnight.

4 Q Would you have arrived shortly thereafter?

5 A Yes.

6 Q Okay. And can you describe the like lighting  
7 conditions outside at that time?

8 Was it dark?

9 A I don't recall the exact lighting as far as the  
10 apartment complex went.

11 Q Okay. So what officers were present when you  
12 made contact with the scene, or were you the first officer  
13 to arrive?

14 A I was one of the first to arrive.

15 Q And were you the first officer that make contact  
16 with Mr. Rodney Green?

17 A Yes.

18 Q What do you do when you first get to the  
19 apartment?

20 A I knocked on the door.

21 Q And then what happened?

22 A A black male subject, who was later identified  
23 as Rodney Green, answered the door.

24 Q Now, did you have clear visual into the  
25 apartment at the time that you entered, or was it dark at

1 that point?

2 A It was dark at that point.

3 Q So were the lights turned off inside the  
4 apartment?

5 A Yes.

6 Q Do you initially step foot into the apartment  
7 when the lights are still off?

8 A Yes.

9 Q Okay. And at what point does the apartment  
10 ultimately get illuminated?

11 A That I recall, Mr. Rodney Green turned on a  
12 light.

13 Q Can you tell us what observations you made once  
14 the light was turned on?

15 A Once the light was turned on, I did observe a  
16 black male subject laying on the ground in a -- well, on  
17 the floor in a puddle of blood.

18 Q Okay. And what about for Mr. Green, did you  
19 make any visual observations of him and his condition?

20 A My initial observations were, I saw him bleeding  
21 from the right side of his face and also blood coming from  
22 his mouth.

23 Q So what are the first steps that you took in  
24 terms of, you know, starting the investigation now that  
25 you're inside the apartment, and you have visual of the

1 body on the floor and then Mr. Green?

2 A I initially tried to ask Mr. Green what  
3 happened. And then I ended up doing a sweep of the  
4 apartment for security to make sure nobody else was in  
5 there.

6 Q Now, did Mr. Green have any difficulty  
7 communicating with you?

8 A Initially, yes.

9 Q Can you describe what that difficulty was like?

10 A I noted that he was unable to speak clearly and  
11 was shaken up.

12 Q In terms of the inability to speak clearly, is  
13 this a circumstance where he can't get any words out at  
14 all, or were you able to understand some of what he was  
15 saying?

16 A There were a few things that I could understand  
17 what he was saying.

18 Q So in times when you were asking him questions,  
19 there are portions where he's responsive to the questions,  
20 right?

21 A Yes.

22 Q Okay. And are you asking him, you know, how he  
23 sustained the injury that you're observing?

24 A Yes.

25 Q Were you able to ascertain what had happened,

1 from him, at that time?

2 A Not at that time.

3 Q Can you tell us the totality of the people that  
4 were present when you first arrived on scene, not officers  
5 but of witnesses or victims?

6 Is it more than the two that we had just  
7 discussed?

8 A Can you rephrase the question?

9 Q So is there anyone else on scene other than  
10 Mr. Green or the individual that's on the ground?

11 A Upon first --

12 Q Upon your first arrival --

13 A -- entry?

14 Q -- correct?

15 A Just the other officer or officers that were  
16 there.

17 Q Okay. And does anyone come to the scene after  
18 the fact?

19 A Yes.

20 Q Okay. But that person was not present when you  
21 first arrived?

22 A Correct.

23 Q Now, you had asked Mr. Green, multiple times,  
24 whether or not he was shot, and that's how he sustained  
25 the injuries; is that correct?

1           A     I don't recall exactly what I had asked him.

2           Q     But, ultimately, you're trying to ascertain how  
3 he came to sustain the injury, right?

4           A     Correct.

5           Q     And unable to get an answer as to what happened?

6           A     Correct.

7           MR. MCGREEN:   Moment to confer?

8           THE COURT:    Sure.

9 BY MR. MCGREEN:

10          Q     Was Mr. Green able to tell you anything about  
11 what happened and what transpired prior to your arrival;  
12 give you any names or identification or anything like  
13 that?

14          A     The only thing from Mr. Green is I noted that he  
15 said he was sleeping and woke up and was hit.

16          THE COURT:    I'm sorry; sleeping, woke up, and  
17 what was --

18          THE WITNESS:   Was hit, like hit, H-I-T.

19 BY MR. MCGREEN:

20          Q     Why not?

21                 Why weren't you able to get any additional  
22 information from him?

23          A     At the time, there was blood coming from his  
24 mouth, so it -- it -- his words were not clear.

25          Q     In terms of his demeanor, did he come across as

1 kind of frantic, confused, dazed a little bit?

2 A He appeared upset, shaken up.

3 Q Did you notice any difficulty standing up or  
4 holding balance just based off-the blood loss and the  
5 injury?

6 A That I recall, yes.

7 MR. MCGREEN: I don't believe I have any  
8 further questions. Thank you, your Honor.

9 THE COURT: Cross?

10 MR. BRADLOW: No cross, your Honor.

11 THE COURT: All right. Can we excuse her?

12 MR. MCGREEN: Yes.

13 MR. KOSKINAS: Yes.

14 THE COURT: Thank you.

15 THE WITNESS: Thank you, your Honor.

16 THE COURT: Additional witnesses?

17 MR. BRADLOW: Yes, your Honor, we have Officer  
18 -- is it Seay?

19 MR. MCGREEN: Seay.

20 MS. RUSSELL: Spelled S-E-A-Y.

21 THE COURT: Thank you.

22 THE BAILIFF: Right up here, Officer. Right  
23 over here, sir. Please, if you can stand right  
24 here. Please face the clerk. Raise your right  
25 hand. Receive the oath.

1 \_\_\_\_\_  
2 THEREUPON,

3 OFFICER KENNETH SEAY,  
4 the witness herein, having been first duly sworn, was  
5 examined and testified as follows:  
6 \_\_\_\_\_

7 THE BAILIFF: Have a seat over here. You can  
8 adjust the chair and mic.

9 **DIRECT EXAMINATION**

10 BY MS. RUSSELL:

11 Q Good afternoon, Officer Seay.

12 A Good afternoon.

13 Q I want to thank you for waiting to bring your  
14 testimony today. I really appreciate it. We'll try to  
15 make it quick.

16 So could you introduce yourself to the court  
17 reporter, please, and spell your last name for the record.

18 A Yes. Kenneth Seay. Last name is spelled,  
19 S-E-A-Y.

20 Q Tell me about your background in law  
21 enforcement.

22 A I started working with St. Petersburg police  
23 department as a sworn officer in 2019.

24 Q And you've been a sworn law enforcement ever  
25 since?

1 A Yes.

2 Q I'd like to take you back to the time frame of  
3 February 2nd, 2021, slightly after midnight.

4 Did you receive a call at that time?

5 A Yes.

6 Q And what were you doing?

7 A I was dispatched to the Emerald Pointe  
8 apartments.

9 Q Why were you dispatched?

10 A To assist Officer Hollister in an investigation.

11 Q What kind of investigation?

12 A Be a homicide investigation.

13 Q Did you enter the apartment there, apartment  
14 number 113?

15 A No.

16 Q Did you wear a body worn camera that day?

17 A I did.

18 Q And you had it deployed, so it was recording  
19 while you were there?

20 A Yes.

21 Q All right. Did you ever remember seeing a  
22 victim named Rodney Green?

23 A I do.

24 Q When did you first see him?

25 A In the ambulance.

1 Q And what were you doing in the ambulance?

2 A Whenever we have a gunshot victim or any victim  
3 that we're -- of -- of -- you know, anytime a crime, we're  
4 investigating, we will have someone ride with them.

5 So Officer Hollister requested me to ride with  
6 that victim in the ambulance, which is why I was there.

7 Q Were you able to observe everything that Rodney  
8 Green did while you were there in the ambulance?

9 A In what regard?

10 Q In terms of what he said.

11 A Yes.

12 Q And what the paramedics were doing to him?

13 A Yes.

14 Q What did Rodney Green say?

15 A He was just able to give me his date of birth  
16 and his name.

17 Q And how did he do that?

18 Was he able to quickly respond in a way that was  
19 very fast and appropriate?

20 A No. It was slow and incremental.

21 Q When you say "slow and incremental," describe  
22 that to me.

23 A As if he had difficulty speaking.

24 Q Why would he have had difficulty speaking?

25 A He appeared to have a gunshot in his face.

1 Q Did you see a lot of blood?

2 A It was bleeding profusely.

3 Q Did he appear to be in great pain?

4 A Sure.

5 Q Now, did Rodney Green identify who shot him, in  
6 the ambulance?

7 A No.

8 Q Did you go anywhere else that night after the  
9 ambulance?

10 A To Bayfront Hospital.

11 Q What were you doing there?

12 A Standing by with him while he received medical  
13 treatment in trauma room 1.

14 Q And when that happened, you still had your body  
15 worn camera deployed, right?

16 A Yes.

17 Q So you were recording everything?

18 A Yes.

19 Q What was the scene there at Bayfront in the  
20 emergency room?

21 A There was a lot of medical staff that were  
22 attending to him.

23 Q Havoc?

24 A Sure.

25 Q Noisy?

1 A Yes.

2 Q I mean, it was an emergency?

3 A It was.

4 Q He had been shot in the face?

5 A Yes. It appeared that way.

6 Q Did you hear Rodney Green say anything while he  
7 was there?

8 A He did make one statement that sounded as though  
9 he said, "They killed my brother."

10 Q Did he saying anything else?

11 A Not that I can recall.

12 Q Did he say anything about knowing Cornelius  
13 Whitfield?

14 A No, not that I can recall.

15 Q That statement, "They killed my brother," was  
16 important to you, wasn't it?

17 A I mean, it's worth noting, yeah.

18 Q And you noted that in your report?

19 A I did.

20 Q Was Rodney Green waning in and out of  
21 consciousness?

22 A He appeared to be.

23 Q Were there any other conditions that you  
24 noticed, like shock?

25 A Yes, he appeared to be.

1 Q Why was that?

2 A I don't know.

3 I can infer that it's probably from the medical  
4 trauma that he was suffering.

5 Q Now, after you left the hospital, what happened  
6 to your body worn camera footage?

7 A I uploaded it to evidence.com.

8 Q And were you aware --

9 THE COURT REPORTER: I'm sorry. I'm sorry. I  
10 didn't hear what he said.

11 THE WITNESS: I said I uploaded it to  
12 evidence.com.

13 BY MS. RUSSELL:

14 Q And are you aware if any detectives in this case  
15 were able to look at your body worn camera?

16 A No.

17 Q All right. One moment, please.

18 All right. Thank you, again, Officer.

19 A You're welcome.

20 THE COURT: Any questions, State?

21 MR. BRADLOW: Briefly, your Honor.

22 **CROSS-EXAMINATION**

23 BY MR. BRADLOW:

24 Q You refer to a statement where Mr. Green, while  
25 being treated, states, "They killed my brother," right?

1           A     That's what it sounded like.

2           Q     Okay.  And did you have an opportunity yesterday  
3 to rewatch that body cam footage?

4           A     I did.

5           Q     Do you have a level of confidence as to whether  
6 he said, "They" or something else at this time based off  
7 of just reviewing that yesterday?

8           A     Based off of reviewing it, the first part is  
9 definitely harder to understand on body camera.

10                    The only part I could really, clearly make out  
11 was, "Killed my brother."

12           Q     Okay.  And, obviously, that was recorded on body  
13 worn camera?

14           A     Yes.

15           Q     And that recording would be the best evidence of  
16 what, in fact, Mr. Green was saying, correct?

17           A     Yes.

18                    MR. KOSKINAS:  Okay.  Thank you.  No further  
19 questions.

20                    THE COURT:  Any redirect?  
21  
22  
23  
24  
25

1 MS. RUSSELL: One question, your Honor --  
2 well, a couple questions.

3 **REDIRECT EXAMINATION**

4 BY MS. RUSSELL:

5 Q Officer Seay, in all your years of law  
6 enforcement experience, you write reports, right?

7 A I do.

8 Q And it's important that your reports reflect  
9 accurately your impressions of things that happened,  
10 right?

11 A Yes.

12 Q I mean, law enforcement reports, innocence and  
13 guilt hangs in the balance?

14 A That's true.

15 Q People are facing very serious charges, and it's  
16 important that your reports are very accurate and  
17 thorough?

18 A They do.

19 Q You did memorialize in your report, "They killed  
20 my brother," right?

21 A Yes, ma'am.

22 Q Thank you.

23 THE COURT: That it?

24 MS. RUSSELL: Yes.

25 THE COURT: Thank you. Appreciate it.

1           You don't need him to remain?

2           State? Defense?

3           MR. BRADLOW: He's released.

4           THE COURT: Defense, other witnesses?

5           MS. RUSSELL: No, your Honor. We just have  
6 yet to play the body cam.

7           THE COURT: Is that something we're doing now?

8           MS. RUSSELL: If you'd like to hear before the  
9 closings.

10          THE COURT: If what?

11          MS. RUSSELL: If you'd like to hear it before  
12 the closings as opposed to review it in camera some  
13 other --

14          THE COURT: Do you have any more?

15          MR. BRADLOW: No.

16          THE COURT: All right. Yeah, I think --

17                               (SIMULTANEOUS TALKING)

18          MS. RUSSELL: It's short.

19          THE COURT: I mean, do you want to introduce  
20 it into evidence?

21          MS. RUSSELL: Yes, your Honor. We'd like  
22 to --

23          THE COURT: -- he characterize it, so --  
24 (inaudible).

25          MS. RUSSELL: Yes. And the State has agreed

1 that it's authenticated. And I --

2 THE COURT: Okay.

3 MS. RUSSELL: I think we would like to  
4 admit -- I believe it's Defense 2 into evidence at  
5 this time. And we'd like to publish it to the  
6 Court.

7 THE COURT: All right.

8 (STATE'S EXHIBIT NUMBER2 WAS RECEIVED IN EVIDENCE)

9 MS. RUSSELL: And Mr. Bradlow, actually, has  
10 the copy and is going to play it.

11 MR. BRADLOW: Oh. I don't have a copy yet,  
12 but I --

13 MS. RUSSELL: Oh, sorry. Do you want --

14 MR. BRADLOW: Yeah.

15 MS. RUSSELL: -- Exhibit 2?

16 I guess we'll start with Hollister.

17 MR. KOSKINAS: Okay.

18 MR. BRADLOW: It's the larger file, right --

19 MS. RUSSELL: Yeah.

20 MR. BRADLOW: -- the top one? Okay.

21 Just for the record I started playing  
22 Hollister's video on State's Exhibit -- or excuse  
23 me, Defense Exhibit 2.

24

25

1 (THE EXHIBIT WAS PUBLISHED TO THE JURY, AND DUE TO  
2 THE INAUDIBLES AND INABILITY TO DISTINGUISH BETWEEN  
3 SPEAKERS AND/OR THE SPEED OF THE CONVERSATION AND  
4 CROSS-TALK, THE FOLLOWING TRANSCRIPTION OF THE AUDIO BY  
5 THIS COURT REPORTER SHOULD NOT BE CONSIDERED A VERBATIM  
6 RECORD OF SAID AUDIO AND/OR VIDEOTAPE)

7 OFFICER HOLLISTER: Hello -- (inaudible) --  
8 What's going on?

9 What's going on -- (inaudible) -- have fire  
10 rescue. Anyone else in here, sir?

11 We're going to make sure nobody else is in  
12 here, all right?

13 (MULTIPLE INDISCERNIBLE VOICES)

14 OFFICER HOLLISTER: How long have you been  
15 sleeping?

16 UNIDENTIFIED SPEAKER: I don't know.

17 OFFICER HOLLISTER: Can you see what his  
18 injury is -- (inaudible) -- I know. But is there a  
19 gun -- (inaudible) -- sir, you just want to --  
20 (inaudible) -- where are you bleeding from?

21 UNIDENTIFIED SPEAKER: I don't know. I don't  
22 know.

23 OFFICER HOLLISTER: Okay. Do you know what  
24 happened?

25 UNIDENTIFIED SPEAKER: I was laying down

1 and -- (inaudible) --

2 OFFICER HOLLISTER: -- (inaudible) -- for in  
3 here -- (inaudible) --

4 UNIDENTIFIED SPEAKER: Yes.

5 OFFICER HOLLISTER: Where are you bleeding  
6 from?

7 UNIDENTIFIED SPEAKER: I don't know.

8 OFFICER HOLLISTER: But did like someone hurt  
9 you?

10 UNIDENTIFIED SPEAKER: I don't know --  
11 (inaudible) -- and I woke up and -- (inaudible) --

12 UNIDENTIFIED SPEAKER: -- (inaudible) -- shot  
13 yeah -- (inaudible) -- I know, baby -- (inaudible)  
14 -- I know --

15 OFFICER HOLLISTER: Are there any --  
16 (inaudible) -- in the house?

17 UNIDENTIFIED SPEAKER: No.

18 OFFICER HOLLISTER: We're going to probably  
19 need another officer -- (inaudible) --

20 UNIDENTIFIED WITNESS: They killed my brother.  
21 No, man. No -- the other guy -- (inaudible) -- I  
22 didn't know -- I didn't notice anything.

23 OFFICER HOLLISTER: This is definitely going  
24 to be -- I mean, I can't see his injury --  
25 (inaudible) -- if it's going to be like a knife or

1 a gun --

2 UNIDENTIFIED SPEAKER: -- (inaudible) --

3 Whitfield -- Cornelious Whitfield did this, man --

4 (inaudible) -- that's who did this. That's who did

5 this, man. What the fuck, man.

6 UNIDENTIFIED SPEAKER: What the fuck. We was

7 playing video games --

8 OFFICER HOLLISTER: Try to breathe in. Do you

9 know what you were hit with?

10 UNIDENTIFIED SPEAKER: -- (inaudible) --

11 Whitfield, man-- (inaudible) --

12 OFFICER HOLLISTER: So you weren't shot?

13 UNIDENTIFIED SPEAKER: -- (inaudible) -- was

14 shot be guy, bro -- (inaudible) --

15 (MULTIPLE INDISCERNIBLE VOICES)

16 OFFICER HOLLISTER: Not sure until we --

17 (inaudible) -- injury we're -- (inaudible) --

18 OFFICER HOLLISTER: Stop trying to move.

19 They're right here, okay.

20 UNIDENTIFIED EMT: What we got?

21 OFFICER HOLLISTER: I'm not sure. He's saying

22 he was hit, but we're not sure with what. He

23 doesn't know. He said he was sleeping, and he just

24 got hit.

25 UNIDENTIFIED EMT: -- (inaudible) -- kind of

1 walk we -- (inaudible) -- with -- (inaudible) --  
2 can get him on the stretcher. You want to try to  
3 walk on the stretcher?

4 UNIDENTIFIED SPEAKER: I can't breathe. I  
5 can't breathe.

6 UNIDENTIFIED OFFICER: -- (inaudible) --  
7 gloves, gloves, too. I'm going to need someone to  
8 go in the ambulance.

9 UNIDENTIFIED EMT: They shot you in the face?  
10 Okay.

11 UNIDENTIFIED OFFICER: He says, yes. And --  
12 (inaudible) -- exit wound on the back of the head.

13 UNIDENTIFIED EMT: Gunshot?

14 OFFICER HOLLISTER: Yes.

15 UNIDENTIFIED OFFICER: Hang on. You guys did  
16 call that one -- (inaudible) --

17 OFFICER HOLLISTER: -- (inaudible) -- what was  
18 the time -- (inaudible) -- what was the time?

19 UNIDENTIFIED EMT: 021.

20 OFFICER HOLLISTER: First victim is going to  
21 be code 7 021 hours.

22 I need someone to go with him -- (inaudible)  
23 -- someone goes towards the door -- (inaudible) --  
24 make sure nobody -- (inaudible) -- I'll go get  
25 tape.

1 (MULTIPLE INDISCERNIBLE VOICES)

2 OFFICER HOLLISTER: I need someone to go in  
3 the ambulance -- (inaudible) -- no, I'm going to go  
4 get him -- (inaudible) -- we've not got his name.  
5 We've not got anything -- (inaudible) -- not  
6 sure -- (inaudible) -- hold on.

7 You'll go in the ambulance with him.

8 UNIDENTIFIED OFFICER: Okay.

9 OFFICER HOLLISTER: Eventually, we'll get his  
10 name, stuff like that -- (inaudible) -- trying to  
11 figure out his injury. I think it's a gunshot  
12 though.

13 (AT THIS TIME THE VIDEO WAS STOPPED)

14 MR. KOSKINAS: Just for the record, I'm  
15 pausing it on the Hollister's body cam video  
16 entitled "Homicide" at the 9 minute and 32nd mark  
17 of the video.

18 THE COURT: We need more?

19 MS. RUSSELL: Yes, your Honor, only the body  
20 cam footage from Officer Seay.

21 THE COURT: Okay. We don't need anymore from  
22 that one?

23 MS. RUSSELL: I'm sorry?

24 THE COURT: We don't need anymore from that  
25 one?

1 MS. RUSSELL: No, we don't.

2 THE COURT: All right. You putting on Seay's?

3 MR. BRADLOW: Yes.

4 Just for the record, I'm starting the video  
5 titled "Officer Seay," Body -- "BWC Discovery  
6 Redaction," right now.

7 THE COURT: Is it Seay or Seay  
8 (pronunciation)?

9 MR. KOSKINAS: Seay.

10 THE COURT: Still S-E-A-Y, right?

11 MR. BRADLOW: Correct.

12 (THE EXHIBIT WAS PUBLISHED TO THE JURY, AND DUE TO  
13 THE INAUDIBLES AND INABILITY TO DISTINGUISH BETWEEN  
14 SPEAKERS AND/OR THE SPEED OF THE CONVERSATION AND  
15 CROSS-TALK, THE FOLLOWING TRANSCRIPTION OF THE AUDIO BY  
16 THIS COURT REPORTER SHOULD NOT BE CONSIDERED A VERBATIM  
17 RECORD OF SAID AUDIO AND/OR VIDEOTAPE)

18 UNIDENTIFIED EMT: We're good. Let's keep  
19 going -- (inaudible) -- hands buddy. I got to get  
20 an IV -- (inaudible) -- yes, sir -- (inaudible) --  
21 going to get going. All right -- (inaudible) --

22 (MULTIPLE INDISCERNIBLE VOICES)

23 UNIDENTIFIED EMT: Keep moving. Keep moving.  
24 Keep moving. What's your last name?

25 UNIDENTIFIED SPEAKER: My name is Rodney.

1 UNIDENTIFIED EMT: Rodney, you got any  
2 allergies? No? Keep breathing, okay.

3 Rodney -- (inaudible) -- last name or --  
4 (inaudible) -- no -- Rodney, what's your last name?

5 UNIDENTIFIED SPEAKER: Green.

6 UNIDENTIFIED EMT: Green like the color?

7 UNIDENTIFIED SPEAKER: Green.

8 UNIDENTIFIED EMT: Is there an E on the end or  
9 no?

10 UNIDENTIFIED SPEAKER: No.

11 UNIDENTIFIED EMT: I know you're struggling --  
12 (inaudible) -- Rodney, can you tell me your date of  
13 birth? What is it, buddy -- (inaudible) -- date of  
14 birth, buddy -- (inaudible) -- a little poke --  
15 (inaudible) -- one, two -- (inaudible) -- what's  
16 the number of the month?

17 UNIDENTIFIED SPEAKER: -- (inaudible) -- nine,  
18 1990 -- (inaudible) -- yeah -- (inaudible) --

19 UNIDENTIFIED EMT: What's the day?

20 UNIDENTIFIED SPEAKER: September 6<sup>th</sup>.

21 UNIDENTIFIED EMT: September 6<sup>th</sup>.

22 You're doing great, Rodney.

23 UNIDENTIFIED SPEAKER: -- (inaudible) -- kill  
24 him -- (inaudible) --

25 UNIDENTIFIED EMT: You're okay right now --

1 (inaudible) -- though. We need you to focus on  
2 your -- (inaudible) -- okay. You feel like you  
3 need to vomit? Hey, hey, keep your eyes open,  
4 Rodney -- (inaudible) --

5 UNIDENTIFIED SPEAKER: I can't breathe.

6 UNIDENTIFIED EMT: I know. You're doing good,  
7 though.

8 Do me a favor, get a bag out of there.

9 UNIDENTIFIED OFFICER: Out of here?

10 UNIDENTIFIED EMT: Yeah, big bag, big plastic  
11 bag.

12 No. No. Rodney, I want you to use this to  
13 get that blood out, okay -- (inaudible) -- here --  
14 (inaudible) -- close your mouth. There you go.  
15 There you go, buddy. Get all of that out. If you  
16 need a break, let me know, okay. Thank you --  
17 (inaudible) -- Bayfront -- (inaudible) --

18 I'm bringing you a trauma, 30-year-old male,  
19 gunshot trauma, right cheek, on his face, patient  
20 is currently -- (inaudible) -- vitals 72, 7, 3,  
21 68 -- (inaudible) -- C -- (inaudible) -- 90 over  
22 74, pressure. This occurred within the last 15  
23 minutes -- (inaudible) -- you're breathing --  
24 (inaudible) -- here -- (inaudible) -- yeah, it's  
25 just running out okay. Try to suck up some of

1           this. All right. You're breathing all right. I  
2           just need you to stay awake, okay?

3           Do you feel pain anywhere else? I'm sorry. I  
4           got to cut this gingerbread shirt, all right? I do  
5           love it, though -- (inaudible) -- too, all right,  
6           partner.

7           UNIDENTIFIED SPEAKER: (Inaudible).

8           UNIDENTIFIED EMT: Rodney, how you feeling --  
9           (inaudible) -- okay -- (inaudible) -- do you --  
10          (inaudible) -- remember that for me. Remember  
11          that, okay? Stay awake, okay? We're going to  
12          cover you up, okay?

13          First name is Rodney. I didn't get the  
14          spelling -- last name. You said black male. Hey  
15          Rodney, do you live at Emerald Pointe?

16          UNIDENTIFIED SPEAKER: (Inaudible).

17          UNIDENTIFIED EMT: You're good. You're good.  
18          Sounded like he said "no."

19          Do you know the other guys name -- (inaudible)  
20          -- he's going into shock. Get that blood out of  
21          there. You're breathing, buddy. You're breathing  
22          alright. You're breathing okay. You're doing  
23          great, alright? You're doing good. Hang in there,  
24          Rodney. Stay awake, buddy. Doing excellent,  
25          Rodney, okay? You just need to stay awake all

1 right, man? Lie down again. Close your lips.  
2 Close your lips. All right, buddy. We're almost  
3 there, Rodney.

4 What's my name? Do you remember? What is it?

5 UNIDENTIFIED SPEAKER: (Inaudible).

6 UNIDENTIFIED EMT: Good. Good. Stay awake,  
7 buddy, okay? You're doing good -- (inaudible) --  
8 to the hospital right now. You just need to stay  
9 awake, okay? You're not going to die, just a  
10 little bit of blood in your mouth. Doing good,  
11 Rodney.

12 UNIDENTIFIED SPEAKER 2: Can you say your  
13 name?

14 THE WITNESS: I can't breathe.

15 UNIDENTIFIED SPEAKER 2: -- (inaudible) -- in  
16 your mouth.

17 UNIDENTIFIED EMT: He did give us a name in  
18 the ambulance if you want it -- (inaudible) -- 180  
19 over 90.

20 UNIDENTIFIED SPEAKER 2: Okay. Thank you. I  
21 don't see anything in the back side of his head.  
22 Is that the bullet?

23 (AT THIS TIME THE VIDEO WAS STOPPED)

24 MR. BRADLOW: Just for the record, I'm pausing  
25 Officer Seay's video at the 16 minute 29 second

1 mark.

2 THE COURT: All right. You good?

3 MS. RUSSELL: Yes.

4 THE COURT: All right. Thank you.

5 Any other videos?

6 MS. RUSSELL: No, your Honor.

7 THE COURT: Any other evidence from the  
8 defense?

9 MS. RUSSELL: No, your Honor.

10 THE COURT: State, I'm assuming you don't have  
11 any rebuttal?

12 MR. BRADLOW: No, your Honor.

13 THE COURT: Not that we have rebuttal  
14 necessarily in a motion to suppress.

15 But you don't have anything else?

16 All right. You guys ready to argue?

17 You're the proponents of the motion, right?

18 MS. RUSSELL: Except they bear the burden of  
19 proof.

20 MR. BRADLOW: I'm happy to go first if you  
21 want.

22 THE COURT: All right. Go ahead.

23 CLOSING ARGUMENT

24 MR. BRADLOW: Anthony Bradlow for the record.

25 Your Honor, I did send some case law over. I

1 have copies if your Honor wants that. But I was  
2 going to go through some of the case law and be  
3 brief on each of them.

4 Do you want the copies, your Honor?

5 THE COURT: I think I got them, don't I?

6 MR. BRADLOW: I emailed them to judicial  
7 assistant yesterday.

8 THE COURT: I got a bunch of cases I'm looking  
9 at.

10 MR. BRADLOW: Okay.

11 THE COURT: If they don't match up to the ones  
12 you argue, I'll let you know.

13 MR. BRADLOW: All right. Yes, sir. So the  
14 two-part test for admissibility as to whether the  
15 single photo can come in, in this case; the case  
16 that I cite to is Fitzpatrick v. State. It's 900  
17 So.2d 495. That's a Florida Supreme Court case out  
18 of 2005.

19 In that case -- it's a two-part test; whether  
20 the police used an unnecessarily suggestive  
21 procedure and whether that procedure gave rise to a  
22 substantial likelihood of irreparable  
23 misidentification.

24 In this case, the State concedes that using  
25 the single photograph is suggestive. However,

1 given the testimony of Rodney Green and also the  
2 testimony of the two detectives in administrating  
3 the photograph, that procedure did not give rise to  
4 a substantial likelihood of irreparable  
5 misrepresentation.

6 And the key points as to why is that  
7 Mr. Whitfield is known to Rodney Green. The  
8 testimony today was that Mr. Rodney Green had seen  
9 Cornelius Whitfield in November on one occasion for  
10 approximately 30 minutes.

11 It's important to note that Rodney Green  
12 specifically stated he was paying close attention  
13 to the man because he was acting strange that is  
14 important because this is not just two  
15 individuals -- or two ships passing in the night.  
16 They're not strangers to one another.

17 Mr. Whitfield goes way back with Deronrick.  
18 He knew at least of him back when he was a kid.  
19 And hadn't seen him for -- he hadn't met him  
20 formally until November of 2020, given a prison  
21 stint for Mr. Whitfield. But he is, in fact, known  
22 to Rodney Green.

23 There's one meeting between the shooting and  
24 that first November date where they meet in 2020  
25 where he sees him again for a short period of time.

1           Then again, prior to the shooting for 20 to 30  
2           minutes, I believe was the testimony from Rodney  
3           Green that they were together in the living room  
4           area. The living room area has now been observed  
5           on the body cam by the Court.

6           It's a small apartment. They're all close to  
7           one another. In each of the occasions that Rodney  
8           Green had previously seen Mr. Whitfield, he had  
9           testified that it was well lit. He could observe  
10          his face. They're in close quarters. They're  
11          sitting next to each other on the couch, in fact.

12          And, again, Mr. Whitfield also pulls a firearm  
13          out in February prior -- February 2021 prior to the  
14          actual shooting itself. Again, another reason for  
15          Rodney Green to pay very close attention to the  
16          man.

17          Now, another very key thing in this -- key  
18          point in this case is that after the shooting and  
19          after Rodney Green, who had testified that he was  
20          absolutely certain it was Cornelius Whitfield,  
21          which is something your Honor should consider, the  
22          certainty level of Mr. Whitfield's identification,  
23          he's -- he testified multiple times that he was  
24          absolutely certain it was Mr. Whitfield who pulled  
25          a gun on him, put it to his head, and subsequently

1 robbed him after he was shot in the face.

2 The timeline of the phone call -- police --  
3 the phone call to Deronrick Green when the police  
4 arrived and when the identification is shown to  
5 Mr.-- excuse me, when the photograph is shown to  
6 Mr. Green the following day on February -- February  
7 2<sup>nd</sup>, 2021, at approximately 1:30 p.m., Mr. Rodney  
8 Green testified he called his brother after he had  
9 been shot in the face and after he was robbed and  
10 after Cornelius Whitfield left the scene.

11 He specifically testified that he told  
12 Deronrick that he was shot -- that Darren Barnes is  
13 dead. I believe he used the word -- his nickname  
14 is D. Cash and that Cornelius Whitfield shot him.

15 That is essential to this case because now  
16 Rodney Green, at the time of the -- at a time most  
17 near in proximity to the shooting itself is now  
18 stating that he saw Cornelius Whitfield.

19 Now, going to some more law on the matter, I  
20 cite to Lynn v. State -- that's L-Y-N-N -- 286  
21 So.3d 357. It's a 2019 First DCA case. As well as  
22 Gillis v. State -- G-I-L-L-I-S -- 930 So.2d 802.  
23 It's a 2006 Third DCA case.

24 Both those cases cite to the following  
25 proposition: Single photo identifications are most

1 likely to be admitted when witnesses have prior  
2 familiarity with the defendant, good viewing  
3 conditions during the crime, prompt identification  
4 while memory is fresh, or an independent basis for  
5 identification uninfluenced by the suggestive  
6 procedure.

7 In this case -- now, that's an "or." It's  
8 really a case-by-case basis looking at the totality  
9 of everything. But all of those are met here.

10 He calls his brother. Immediately says it's  
11 Cornelius Whitfield. He has prior familiarity with  
12 the defendant. He testified that it was well lit.  
13 The lighting was on. And it's close quarters where  
14 he would, obviously, be observing the man who's  
15 face-to-face with him with a gun to his head.

16 All of those points go to that any sort of  
17 single photo presented to Mr. -- Mr. Rodney Green  
18 would not be -- would not be a procedure that would  
19 cause any substantial likelihood that he would  
20 misidentify Cornelius Whitfield.

21 Now, going to -- I already cite to the  
22 *Fitzpatrick* case. I'm citing to that case again.

23 Another proposition in that case is although  
24 showing a photo array in a suggestive manner or  
25 method, a witness' independent recollection of

1 defendant at the time of the murder offense  
2 provided a basis for identification uninfluenced by  
3 the suggestive procedure making the witness  
4 identification testimony admissible.

5 Again, not to beat a dead horse here, but I  
6 believe applying the facts of this case with that  
7 proposition, again, would -- would allow the Court  
8 to admit the out-of-court identification based off  
9 a single photo.

10 Now, other factors that are to be  
11 considered -- all of these cases that I'm citing to  
12 cite to Neil v. Biggers. That's N-E-I-L. And then  
13 Biggers is B-I-G-G-E-R-S. That's 409 U.S.  
14 188(1972) US Supreme Court. The *Neil v. Biggers*  
15 case provides the Court with a five-factor test as  
16 to whether a single photo would lead to substantial  
17 likelihood of misidentification.

18 Those factors are opportunity of a witness to  
19 view the criminal at the time of the crime. I  
20 would point the Court to Rodney Green's testimony  
21 regarding lighting; that it was well lit; distance,  
22 that he was close in proximity at multiple times,  
23 even face-to-face when the gun was pulled into  
24 [sic] his head; the duration of the observation, 20  
25 to 30 minutes on the day of the shooting; also, the

1 two prior times that Mr. Rodney Green had seen  
2 Cornelius Whitfield.

3 The second prong from *Neil v. Biggers* is the  
4 witness' degree of attention. Is the witness  
5 focused on the perp, or is he just catching him on  
6 the peripheral, basically, is what that factor  
7 means.

8 And clearly, based off of Rodney Green's  
9 testimony, he's paying close attention to this man.  
10 He is worried and concerned because he's acting  
11 strange and weird. He's paying closer attention  
12 to -- to -- to Cornelius Whitfield also because  
13 he's flashing a "piece."

14 The third prong would be the accuracy of the  
15 witnesses prior description of the perp. Here,  
16 obviously given the injury to Rodney Green, and the  
17 fact he's unable to really speak with law  
18 enforcement, he can only do hand gestures as to the  
19 positive identification, I don't believe that  
20 factor can really be -- you can't really look too  
21 deep into that factor given the circumstances and  
22 the indigent circumstances of how they have to have  
23 him identify the photograph of who that is.

24 The next, fourth factor, from *Neil v. Biggers*  
25 would be the level of certainty demonstrated by the

1 witness at the time of confrontation, conveying the  
2 identification.

3 Again, looking back to Rodney Green's  
4 testimony today, he stated that he was absolutely  
5 certain that Cornelius Whitfield is the one who  
6 committed this crime.

7 And, additionally, he, through nonverbal hand  
8 gestures and head nods, in the international sign  
9 for "yes," gave a head nod up and down. I  
10 believe -- I would submit to the Court that is  
11 sufficient under the fourth factor.

12 The next factor, number five, would be the  
13 length of time between the crime and confrontation.  
14 Here, the confrontation [sic] of the photograph to  
15 Mr. Rodney Green happened at 1:30 p.m. the  
16 following day. Approximately, 13 and a half hours  
17 or so had passed. And given, again, the  
18 circumstance of this case and how he would  
19 have -- how law enforcement could even show him the  
20 photograph, that was done in pretty much the least  
21 amount of time possible given his surgery that he  
22 had to have immediately after the incident.

23 There are a couple other cases I wanted to  
24 point out. One is Edwards v. State 538 So.2d 440.  
25 That's a Florida Supreme Court case from 1989. In

1 that case -- that is a case where the photograph  
2 was not allowed to be introduced.

3 And I believe that's helpful for the Court to  
4 see a situation, what sort of circumstances would  
5 have to exist for it not to come in. And in that  
6 case, in the *Edwards* case, the witness who was  
7 shown a single photograph only observed the  
8 defendant for a few seconds with no reason to pay  
9 any attention to him. Thus, the unduly suggestive  
10 photo induced his in-court ID.

11 That is a situation where clearly a photo pack  
12 would be needed. It is really on the total  
13 opposite spectrum of what Rodney Green testified to  
14 and how he was paying close attention to  
15 Mr. Whitfield because of reasons I've already  
16 stated.

17 And the next case I wanted to cite to is *Perez*  
18 *v. State*, which is cited in the *Fitzpatrick* case  
19 that I had submitted. That's 648 So.2d 715 Florida  
20 Supreme Court from 1995. That's actually cited in  
21 the *Fitzpatrick* case.

22 But it talks about a show-up in that case. I  
23 know it's not directly on point. But that was a  
24 situation where a show-up did not taint in-court ID  
25 because a witness observed the defendant at the

1 time of the crime scene [sic] for about one minute  
2 within eight to 10 feet.

3 Just to give the Court an example of when  
4 something that's far less amount of time and far  
5 less reason to be paying attention to somebody was  
6 allowed to be presented to a jury.

7 The *Fitzpatrick* case that I've cited to  
8 several times is also important for the Court to  
9 consider. In the *Fitzpatrick* case, that was an  
10 out-of-court ID. It was -- it was alleged that it  
11 was unduly suggestive and should not be introduced.

12 In that case, there were two ID witnesses.  
13 The first one's last name was Howard and is  
14 referenced in the *Fitzpatrick* case. Howard's  
15 testimony in that case was that Howard had got a  
16 good look at Fitzpatrick. The defendant was at  
17 Howard's home for 15 to 20 minutes. It was well  
18 lit, five to 10 feet away from the defendant.

19 And the Court ruled that, that identification  
20 was not influenced by suggestive procedure because  
21 the ID witness with the last name Howard in the  
22 *Fitzpatrick* case had an independent basis for  
23 identification.

24 And that is the same situation we have here.  
25 Mr. Green has an independent basis for

1 identification. He called his brother, and  
2 immediately stated that Cornelius Whitfield shot  
3 him and killed Darren Barnes. And that's before  
4 anything could have suggested to him otherwise or  
5 that Mr. Whitfield could have -- is the one who did  
6 it.

7 And the Lynn, State also provides instruction  
8 to this Court. That is a first DCA case 286 So.3d  
9 ■■■, a ■■■ case. In that case, a witness  
10 previously purchased drugs from the defendant. And  
11 that was an independent basis for identification.  
12 The Court ruled that, that was admissible.

13 Also in Willis -- or excuse me, Gillis v.  
14 State -- I believe I already cited this, but I'll  
15 just be safe -- Third DCA case, 930 So.2d ■■■  
16 (■■■) case.

17 In that case, the witness observed the  
18 defendant many times in the area, observed the  
19 defendant in broad daylight. He was certain of his  
20 identification. And based on that, that ID came  
21 in, in that case.

22 I would submit to the Court that we have more  
23 than those cases where it was allowed to be in.

24 And to finish up, your Honor, the law  
25 enforcement officers are not suggesting a suspect

1 to Rodney Green in this case because they have  
2 already confirmed, prior to even speaking to Rodney  
3 Green, that he is the suspect, right. They're  
4 not -- they did nothing in the showing of the  
5 photograph to state to Mr. Rodney Green while he's  
6 in the hospital that he is -- that they're showing  
7 him a picture of -- of -- of the suspect of the  
8 crime or that they're showing him a photograph  
9 of -- of Cornelius Whitfield. They just are  
10 asking, Do you recognize the individual who shot  
11 you? And he shakes his head up and down, yes.

12 So for those reasons and the propositions that  
13 are held in the court cases I cited to your Honor,  
14 the State would ask that you deny the defendant's  
15 motion to suppress the in-court and out-of-court  
16 identification by Rodney Green based off of his  
17 level of certainty and all of the other argument  
18 I've made.

19 Thank you, your Honor.

20 THE COURT: Response?

21 MS. RUSSELL: Your Honor, may I approach with  
22 some cases?

23 THE COURT: Sure.

24 MS. RUSSELL: I think most of them have  
25 already been produced to you by the State, but I

1 thought you might like some of ours, too.

2 THE COURT: Okay. I reviewed it, okay. You  
3 have my full attention.

4 CLOSING ARGUMENT

5 MS. RUSSELL: Thank you, your Honor.

6 There's a reason why there are such specific  
7 requirements and such grave consequences for law  
8 enforcement to conduct these photo identifications  
9 properly. And this is embodied in our historic  
10 case law, the Florida Statutes 9270 and also the  
11 standard operating procedures of the St. Pete  
12 police department.

13 Of course, there are two prongs. The first  
14 question is: Did the police employ an  
15 unnecessarily suggestive procedure considering all  
16 the circumstances?

17 Now, the case law is pretty clear -- and I  
18 guess the State has already basically admitted --

19 THE COURT: And I've so concluded. So we can  
20 probably move forward with that first prong he's  
21 probably met.

22 MS. RUSSELL: Okay.

23 THE COURT: I don't want to cut short your  
24 brilliant stuff. You want to make a few additional  
25 points, go ahead.

1 MS. RUSSELL: I would just like to say, for  
2 the record, that those single photographic lineups,  
3 actually, in *Way v. State*, which is 502 So.2d at  
4 page 1321. And, in fact, many cases have said,  
5 actually, that the single photo lineup is, per se,  
6 suggestive, right.

7 So now we're going to move on. Did it give  
8 rise to an irreparable chance that there may be a  
9 misidentification?

10 One photograph shown to a man at the Bayfront  
11 ICU who had met Cornelius Whitfield maybe two or  
12 three times and had never identified him prior, not  
13 at the crime scene, not in the ambulance, never  
14 ever.

15 Now, the *Line* (phonetic) cases allow one  
16 photograph when the accused is personally known to  
17 the witness and the victim -- or the victim, the  
18 witness or the victim. In this case, the victim,  
19 not the victim's brother, not the victim's friend,  
20 not the victim's neighbor, the victim, the witness.

21 And despite all that training and familiarity  
22 with the standard operating procedures, Officer  
23 Mensah still seems confused in her testimony. She  
24 seemed to think that a prior identification of  
25 Cornelius Whitfield by Deronrick somehow counts as

1 a prior identification of Cornelius Whitfield by  
2 Rodney Green.

3 And maybe it was the fact that Deronrick Green  
4 new Cornelius Whitfield since elementary school and  
5 growing up that somehow that knowledge is imputed  
6 to Rodney Green to get by the very strict  
7 requirements of the single photograph  
8 identification. But that's not the law. That's  
9 not the law of the State. That's not the law of  
10 the country.

11 The Supreme Court of the United States has  
12 found that the primary evil of these types of  
13 mistakes is that substantial likelihood of  
14 irreparable misidentification. And that's from  
15 *Neil v. Biggers*.

16 Now, Darren Barnes, Rodney Green, and  
17 Deronrick Green were widely known drug dealers.  
18 They were operating out of a small apartment used  
19 exclusively for their illicit operations.  
20 Sometimes they'd sleep over. Sometimes they  
21 wouldn't. But they were using that as a trap  
22 house. They had bulse eyes on them. And any of  
23 their drug-dealing gun-toting colleagues, friends,  
24 and customers knew that they could find money and  
25 drugs in that house.

1           Rodney Green's only recorded spontaneous  
2 statement proximate to the crime before the  
3 surgeries and pain killers was, "They shot me."

4           Now, Officer Mensah seemed to think that  
5 Rodney Green identified Cornelius Whitfield to  
6 officers at the crime scene and in the ambulance.  
7 But you have now seen the body worn camera. There  
8 was no such identification.

9           *Neil v. Biggers* says you have to look at the  
10 circumstances of reliability around this  
11 identification to figure out if it should be  
12 suppressed.

13           The opportunity of the witness to view the  
14 criminal at the time of the crime, the witness'  
15 degree of attention, the accuracy of the witness'  
16 prior description of the criminal, the level of  
17 certainty demonstrated by the witness at the  
18 confrontation, and the length of time between the  
19 crime and the confrontation.

20           Rodney Green never identified Cornelius  
21 Whitfield prior to the single photo ID in the ICU.

22           Rodney Green smoked weed and took some Xanax  
23 pills and fell into a deep sleep that night on  
24 February 1<sup>st</sup>. He woke suddenly in the wee hours  
25 of February 2<sup>nd</sup> and realized he had been shot.

1           Hollister's body worn camera shows him very  
2 much non compos mentis at the crime scene. He's  
3 bleeding from the mouth, spitting out blood and  
4 pieces of his teeth. In the ambulance Officer Seay  
5 says he can barely speak his own name in  
6 increments. And while surrounded by medical staff  
7 in the emergency room, he said, "They shot me."

8           Less than 12 hours later after the surgery,  
9 the intubation, the gauze, with the bullet still  
10 lodged in his neck, Detective Jordan and Detective  
11 Mensah went out to the ICU where he was sleeping.  
12 They took pictures of him without his permission  
13 and then woke him up.

14           They didn't really ask him any qualifying  
15 questions to see what his state of consciousness or  
16 awareness was. And then they showed him a single  
17 photograph of Cornelius Whitfield in his prison DOC  
18 uniform. They recorded his nods and his hand  
19 signals as a positive identification.

20           Oh, and then they returned to the hospital two  
21 hours afterwards to determine if Rodney Green knew  
22 the difference between yes and no. That was after  
23 he identified the photograph.

24           Now, Detective Mensah, I think, believed the  
25 whole time that Rodney Green had previously

1 identified Cornelius Whitfield, but she was acting  
2 under a mistaken impression.

3 Curiously, Rodney Green testified today that  
4 he has no memory of any of these identification  
5 procedures or any meeting with law enforcement  
6 while he was in the hospital for two weeks and  
7 prior to giving his statement on February 24<sup>th</sup>.

8 I wonder if the State can point to a single  
9 indicia of reliability in this hospital  
10 identification.

11 I'd like to quickly distinguish the cases  
12 cited by the State. I'm not sure if they cited  
13 *Medina-Tamayo* in their argument, but they did send  
14 the case to me. That was a case all about the  
15 photo ID that was not procured by state action and  
16 clearly doesn't apply in this case.

17 In the *Lynn* case, the identifying witness knew  
18 the defendant very well, repeatedly purchased drugs  
19 from him and owed money to the defendant, so there  
20 was a very strong basis for that identification  
21 unlike in this case where Rodney Green had only  
22 seen him a few times, quickly, and did not identify  
23 him prior to the photographic ID.

24 In *Gillis* the witnesses also had a number of  
25 opportunities over and over to observe the

1 defendant, and they were very familiar with him.

2 Unfortunately, with this particular violation,  
3 the State cannot rely on a good faith exception.  
4 And even if these detectives intended well, their  
5 mistakes still should result in suppression. And  
6 any post hoc attempts to show up this  
7 identification by going back to the hospital to  
8 make sure Rodney Green could answer the questions  
9 don't count.

10 The State Attorney should have to prove their  
11 case at trial without this tainted ID. And the  
12 taint that occurred with the hospital  
13 identification should apply to the in-court  
14 identification, too.

15 We're asking the Court to suppress the  
16 identification at the ICU and the in-court  
17 identification as well as the State has not met the  
18 clear and convincing standard that the in-court ID  
19 was from an independent source.

20 Like in *Edwards*, there is no indicia of  
21 reliability in this identification.

22 I'd also like to incorporate all the arguments  
23 and cases cited in our motion. Thank you.

24 THE COURT: All right. Any response?

25 MR. KOSKINAS: I don't, your Honor. I think I

1 referenced every point in my initial argument.

2 RULING

3 THE COURT: All right. Well, I agree with  
4 everybody that it was unduly suggestive, the one  
5 photo. The case law is pretty ligand.

6 It's funny. Of all the cases you guys cited,  
7 there was only one grand theft in there. And that  
8 was found to be unduly suggestive and not admitted.  
9 Every other case is a murder case, so apparently  
10 the exceptions to the rule only apply in murder  
11 cases. Who would have thought.

12 The rules are rules unless it's a murder case,  
13 and then maybe the rules aren't always the rules.  
14 It's just an -- it's someone who's been experienced  
15 in this to think about these kinds of situations.

16 So it was clearly unduly suggestive. Then the  
17 witness -- and then the question becomes: Is the  
18 independent recollection of the witness at the time  
19 of the homicide provide a basis for identification  
20 uninfluenced by suggestive procedure making his  
21 identification testimony inadmissible?

22 Well, the one case in there when they were at  
23 the bar, the guy never really seen him before and  
24 only had a shaky look at him. So they said that  
25 was too unduly suggestive.

1           You know, the -- it would be easy if the guy  
2           had been life-long friends, and something happened  
3           because then you can say he's known him forever.  
4           And the case where they were in the bar where he'd  
5           just seen him once for a few minutes, that's pretty  
6           much obvious. We're somewhere in between those two  
7           things in this situation, right?

8           And -- and it's almost a little more  
9           complicated because part of what he knows about the  
10          defendant is derivative from his brother and  
11          Mr. Barnes, right, because they were there when  
12          they first met him.

13          And so you argue, well, you can't really  
14          consider that the brother and Barnes knew him. But  
15          part of what this gentleman testified to is  
16          derivative of what his brother and Barnes knew  
17          because they met him when he was there and with  
18          him. So that adds a little twist to that scenario  
19          in that situation.

20          He knew him -- what? -- three months before is  
21          when he first met him, right, when he was coming  
22          back from prison. And they knew -- he knew them at  
23          the place where the shooting eventually occurred,  
24          right. So they met him in that apartment. He knew  
25          from his brother's reference that he was

1 "Cornbread," as I heard the testimony. And so  
2 little brother knew him from big brother and  
3 Barnes.

4 They'd hung out in the apartment together,  
5 showed him his firearm, they saw him, they saw his  
6 face, they were hanging out in the apartment. So  
7 it's not like it was some brief encounter or it was  
8 some guy named Joe that nobody ever seen before.  
9 It was Cornbread who the brother and Barnes had  
10 known since they were childhood friends.

11 So how do you account for the derivative part  
12 of that? I guess it goes into the whole knowledge  
13 that the witness had relative to that. I mean,  
14 that's the only thing that I can think.

15 We wouldn't be having this conversation if the  
16 brother or Barnes -- obviously Barnes isn't gonna,  
17 but if the brother or Barnes was making the  
18 identification, we wouldn't be having this  
19 question, right?

20 But the little brother, part of what he knows  
21 about the defendant in this case, is derivative of  
22 what the brother and Barnes know. So I don't know  
23 that excludes or includes. It's just part of what  
24 the scenario is in which he got his information  
25 about that.

1           So three months before, he hangs out at an  
2 apartment, has a chance to see him, has a chance to  
3 know who he is from the brother and Barnes. And I  
4 guess they compare, or he looks at a firearm that  
5 he had. And so it's not like he's a stranger, came  
6 to the apartment.

7           The other thing is this is the apartment  
8 they're all dealing dope out of, right, for some  
9 period of time? I mean, it's not like this is an  
10 open place where everybody gets to hang out, talk  
11 about their dope deals, and show each other their  
12 firearms.

13           I presume based on the testimony -- and I  
14 don't have to presume it -- based on the testimony,  
15 this is a place with limited access where people  
16 just not from the neighborhood are going to stop in  
17 and say, Hey, what's going on here, because what's  
18 going on is guys hanging out with guns and doing  
19 dope deals out of the apartment.

20           So I'm circumstantially concluding that this  
21 is not a place where everybody in the neighborhood  
22 hangs out. So it's not like, at least  
23 circumstantially, you believe Rodney, has met a  
24 bunch of people hanging out at that apartment. It  
25 would be other dealers or people buying from the

1 other dealers or buying from them themselves.

2 He testified that he saw the defendant one  
3 more time in a quick interaction between November  
4 and February when this occurred. And then he saw  
5 him again that day. They interacted again  
6 similarly to what they did back in November,  
7 apparently had a headache, went into his apartment,  
8 laid down, was on his phone. And he didn't know at  
9 the time but, I guess, from what I took, he -- he  
10 was awakened, apparently, when he got shot, is what  
11 it seems to me, right? I mean, that was the  
12 scenario; he was awakened by a bullet in his face.  
13 So he didn't know it at the time in his actions  
14 afterwards.

15 And so he's had at least three different  
16 occasions where he's met the guy, where he's seen  
17 him. He knows who he is, and he knows his nickname  
18 from people that knew him and introduced him to  
19 him; that being big brother and Mr. Barnes. And he  
20 met him in limited circumstances, i.e., the  
21 apartment used for their -- what was it trap? What  
22 is that, trap house? Is that what they're  
23 suggesting it is?

24 MR. BRADLOW: Yep.

25 THE COURT: So like I said, I would think

1 that's a place of limited interactions at least by  
2 the sellers. Maybe the buyers are only in there  
3 for a short period of time. They exchange money  
4 and drugs. But this is kind of -- I would almost  
5 liken it to a closed fraternity without insulting  
6 fraternities by saying that. But the number of  
7 people I think that you see inside there are going  
8 to be limited to some extent.

9 So he's with them. They're there, showed up.  
10 The brother and Barnes are present. They hang out.  
11 And then he's sitting on the couch. They're  
12 looking at guns. They're showing it off. Hey,  
13 this is what I got. This is what you got. At  
14 least that's what I reference those things are.  
15 He's acting strange. He goes in the bedroom, lays  
16 down, goes to sleep. And as I said, the next thing  
17 he knows, he's shot in the face even though he  
18 doesn't know it at the time.

19 So the question is does he know him well  
20 enough that his identification testimony is  
21 admissible because his independent recollection of  
22 the defendant provides a basis for the  
23 identification?

24 And then you look at those five factors.  
25 Opportunity to view him at the time of the crime, I

1 guess in this case it would be previous to the  
2 crime before he actually got shot in the face.

3 His degree of attention, I mean, the first  
4 time he saw him, his degree of attention was  
5 because the brother and the other guy knew him, and  
6 he was Cornbread coming home from prison.

7 His degree of attention, they interacted.  
8 They showed each other -- at least one of them  
9 showed their guns.

10 The accuracy of his witness' prior  
11 description, not really. That -- that really  
12 doesn't go one way or the other.

13 The level of certainty demonstrated by the  
14 witness, I think that's significant. He knew him.  
15 He knew him from his brothers. He knew him by his  
16 nickname. I think all of those things suggest that  
17 it would be admissible.

18 And then the length of time between the crime  
19 and the confrontation, it was almost, you know,  
20 within 12 hours.

21 Now, is the circumstances of showing him the  
22 photographs perfect? No. You know, we go back 12  
23 hours later. The guy's under the influence of  
24 stuff, I guess, for pain at the hospital. He's got  
25 gauze in his mouth. He can't really talk. And

1 he's still got a bullet, I guess, in his neck at  
2 the time.

3 Would that necessarily be the time that I  
4 would want to go back and show the guy a  
5 photograph? Not really. But in the other  
6 circumstances and his testimony today, he's sure  
7 that It's him.

8 You know, I guess, that gets back to, you  
9 know, the suggestive out-of-court procedure, right.  
10 But the things that mitigate against admitting the  
11 evidence, I think, go to weight and not the  
12 admissibility of it.

13 You can certainly point out -- if you want to  
14 challenge the admissibility of the testimony, all  
15 the things that I laid out -- like I said, this is  
16 somewhere in between. In my view, it's a fairly  
17 close question. Like I said, they're not life-long  
18 friends, you know, that have hung out with each  
19 other for years. Rarely do you get those kinds of  
20 circumstances in these kinds of cases.

21 By the same token, they're not somebody that  
22 just met in a bar some time, and then shortly  
23 thereafter get together, and something happens like  
24 him getting shot in this circumstance. It's  
25 somewhere in between those two.

1           I think there's sufficient indicia of  
2 reliability separate and apart from the unduly  
3 suggestive identification method that makes the  
4 testimony and the identification admissible.

5           So based on those reasons, I would deny the  
6 defense's motion to suppress in this instance.

7           All right. We still got some things to talk  
8 about as far as the other motion to suppress.

9           When do we -- we talk about the 20<sup>th</sup> for  
10 that? Is that when we left it?

11          MR. KOSKINAS: Yes, the 20th.

12          THE COURT: All right. What time you want  
13 to -- how long are you anticipating that's going to  
14 last?

15          MR. BRADLOW: Similar to this, I think.

16          MR. KOSKINAS: Yeah. I think so. This was  
17 longer than I thought. So probably -- do you  
18 have -- you do not have veterans -- I mean, mental  
19 health court that day?

20          THE COURT: No. I can start it whenever you  
21 want, 8:30 or nine. My experience with 8:30 is  
22 they say 8:30, and it's never 8:30, so I normally  
23 would prefer nine.

24          MR. KOSKINAS: (SIMULTANEOUS TALKING) -- good  
25 starting time --

1 THE COURT: What's that?

2 MR. KOSKINAS: What the defense thinks. I  
3 think 10:00 is a good starting time --

4 (SIMULTANEOUS TALKING)

5 THE COURT: I don't have any problems with  
6 that. Depends on how long of you want to stay.  
7 It's a Friday, so I don't want to be here until 7  
8 o'clock at night, not that I won't stay if it takes  
9 that long, but --

10 MR. KOSKINAS: What do you think, ladies?

11 MS. RUSSELL: We're available to start after  
12 nine --

13 MS. SEIFER-SMITH: We can start at ten,  
14 whatever the Court's pleasure.

15 THE COURT: Who -- we talking about --

16 MS. RUSSELL: This is the motion to suppress  
17 the --

18 THE COURT: I know, but are we talking  
19 about -- is it one or two detectives involved in  
20 the interview?

21 MS. SEIFER-SMITH: There are two. I have not  
22 yet deposed Jason Harris, who's the lead detective.

23 THE COURT: So presumably, those would be the  
24 main witnesses?

25 MS. RUSSELL: If the State is seeking to call

1 Detective Harris, I can get his deposition done in  
2 advance of that.

3 THE COURT: We can start at ten if you want.

4 So let's set it at the 20th at ten, the motion  
5 to suppress the defendant's statements.

6 Do you want to do -- we still have to figure  
7 out the 20<sup>th</sup> or the 23<sup>rd</sup>. Do you want to wait  
8 until the 20th to figure out the 23rd, or do you  
9 want to talk about that sometime between now and  
10 then depending on how much you get done?

11 MS. SEIFER-SMITH: Why don't we come back in  
12 front of your Honor in February?

13 THE COURT: Makes sense to me. All right.  
14 Let's go -- I don't know -- like 18th or 19th, or  
15 you want sooner, 11 or 12?

16 MS. RUSSELL: If we can have the -- some time  
17 the week of the --

18 THE COURT: When?

19 MS. SEIFER-SMITH: I mean, I guess the week of  
20 February 16<sup>th</sup>, be fine.

21 THE COURT: I can do 17, 18, 19, whatever you  
22 guys want.

23 Preference?

24 MS. SEIFER-SMITH: No particular preference  
25 from --

1 THE COURT: Tuesday, Wednesday, Thursday,  
2 State? That week?

3 MR. KOSKINAS: Well, looks like Tuesday is  
4 St. Patrick's day. Make it Thursday.

5 MS. RUSSELL: We're talking February.

6 THE COURT: Yeah.

7 MR. KOSKINAS: Oh, sorry. You talking  
8 February. I'm sorry. My bad.

9 17<sup>th</sup> is fine, then.

10 THE COURT: All right. So let's do 2/17 for  
11 a, I guess -- do you want it as a pretrial because  
12 you want -- I'm supposed to have your client here  
13 for --

14 MS. SEIFER-SMITH: Yeah, let's have it as a  
15 pretrial, please.

16 THE COURT: Let's call it a pretrial and trial  
17 and motion to suppress readiness I guess is what  
18 we'll talk about.

19 So let's set it 2/17 -- 2/17, right?

20 MS. RUSSELL: Correct.

21 THE COURT: 2/17 at 8:30, we'll get together  
22 and talk about those matters.

23 Do you want to give me an order that just  
24 states for the reasons stated in court?

25 How do you want to handle that, the reasons in

1 court incorporated by -- however you want to phrase  
2 it.

3 MR. KOSKINAS: I'll print an order.

4 THE COURT: Send them a copy to make sure the  
5 form of the order is okay. And just an order -- I  
6 don't want to put all that in there. They'll have  
7 a transcript typed up for what the basis of the  
8 Court's ruling was. I don't think I need to reduce  
9 all that to writing in the order or do my own  
10 separate order.

11 THE CLERK: I just want to verify.

12 Did you say that motion was for the February  
13 20th date?

14 THE COURT: Which motion? The motion to  
15 suppress?

16 THE CLERK: Yes.

17 THE COURT: No. It's for 3/20.

18 THE CLERK: Thank you.

19 THE COURT: On March 20th. The trial is still  
20 on March 23<sup>rd</sup>. We haven't moved either of those.  
21 We'll do a pretrial on the date indicated to see if  
22 we're ready to do the motion on the 20th and the  
23 trial on the 23<sup>rd</sup>.

24 Anything else to come before the Court today?

25 We'll be in recess until tomorrow morning.

1           Thank you, Madam Court Reporter, madam clerk,  
2           I appreciate it.

3                           **(PROCEEDINGS CONCLUDED)**

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**CERTIFICATE OF REPORTER**

STATE OF FLORIDA )

COUNTY OF PINELLAS )

I, Karen M. Milberg, Registered Professional Reporter, Florida Professional Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true record.

DATED this 24th day of February, 2026.

/s Karen M. Milberg  
Karen M. Milberg  
Registered Professional Reporter  
Florida Professional Reporter