

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY
CASE NUMBER CRC21-01099CFANO
CRC21-01513CFANO

STATE OF FLORIDA,

Plaintiff,

vs.

CORNELIUS TREVON WHITFIELD,

Defendant.

PROCEEDINGS: CONTINUATION OF MOTION TO SUPPRESS
HEARING

BEFORE: THE HONORABLE PHILIP J. FEDERICO

DATE: March 27, 2026

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

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(Pages 1 to 49)

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DEPOSITION OF JOSEPH HEER

12

* * *

(P R O C E E D I N G S)

1
2 THE COURT: We're here on State of Florida
3 versus Cornelius Whitfield, 21-01099, and the other
4 case number tagging along is 21-01513 for a
5 continuation of our motion to suppress. I have the
6 exhibit from madam clerk to give back. Many hours
7 of my life I'm never getting back.

8 All right. So I had a chance to view the
9 video.

10 All right. Who else are we hearing from
11 witness wise? Where is --

12 THE BAILIFF: She is in the hallway talking to
13 one of our supervisors.

14 THE COURT: All right. I don't want to do
15 anything. I just said the style of the case.

16 MR. KOSKINAS: The defense wanted two
17 witnesses, Judge. We sent subpoenas out. We
18 secured the presence of one of those, Brian Burton.
19 The other is on some kind of medical leave, so I
20 don't know when he's coming back, and that is
21 Officer Joseph Heer. So I don't know what they're
22 gonna want to do with that, but we'll take it one
23 step at a time, I guess.

24 THE COURT: Do you want to wait for your
25 compatriot to --

1 MS. RUSSELL: Yes, your Honor. One moment.

2 MR. KOSKINAS: And we spoke to the defense
3 prior to the hearing to explain the situation.

4 (PAUSE IN PROCEEDING)

5 THE COURT: I just set the -- good morning.
6 All right. I just set the style of the case. The
7 State informed me that one of the two witnesses
8 that you wanted are here. Do you -- the other one
9 is on medical leave; is that right?

10 MS. SEIFER-SMITH: That's my understanding,
11 yes.

12 MR. KOSKINAS: Yes.

13 MS. SEIFER-SMITH: I spoke with
14 Detective Burton. He indicated that in between
15 last week when Detective Heer was out for spring
16 break and he received the subpoena for this week,
17 he was injured, and so he's out. I don't want to
18 delay things any further with regards to this
19 hearing waiting for Detective Heer. His testimony
20 would have been very brief. If this -- I mean, I
21 would -- I would stand on what is in the
22 deposition, which was referenced in the motion to
23 suppress statements itself with regards to what
24 Detective Heer's testimony would have been, if that
25 is something the State is amenable to.

1 It was really with respect to -- and if I
2 could just sort of lay the scene. The reason that
3 I was calling both Detective Burton and
4 Detective Heer is to set the scene with regards to
5 what -- I'm sorry. Mr. Whitfield isn't present.

6 THE COURT: I know. And they wanted to ask
7 what -- how do you want him seated or what's the
8 issue?

9 MS. SEIFER-SMITH: So I did have an
10 opportunity to speak with one of the supervisors
11 and I think we do have a resolution.

12 THE BAILIFF: Your Honor, I mean, for right
13 now it's fine. I'm going to run it with our
14 supervision. Just to make sure that, you know,
15 there is room and clearance for one of my deputies
16 if something should happen that, you know --

17 THE COURT: So where -- you want him on the
18 end?

19 THE BAILIFF: Yes.

20 THE COURT: Okay.

21 THE BAILIFF: He can sit -- he can sit at the
22 end if -- ma'am, if you want to sit right in front
23 in the corner, but I'll probably be right in back.

24 Is that okay, your Honor?

25 THE COURT: Whatever you guys want. Whatever

1 you guys are happy with. It's not affecting me.

2 MS. SEIFER-SMITH: I think the corner on this
3 table here.

4 THE BAILIFF: We'll get you a chair, ma'am.
5 (CROSSTALK BETWEEN BAILIFF AND ATTORNEYS NOT TRANSCRIBED)

6 THE COURT: All right. Are we ready for
7 Mr. Whitfield?

8 MS. SEIFER-SMITH: Yes, please.

9 MR. KOSKINAS: So what in the deposition
10 specifically are you talking about and maybe we can
11 just stick to the deposition?

12 THE COURT: Well, wait until he's in and then
13 we can --

14 MS. SEIFER-SMITH: Sorry. Just give us one
15 quick moment.

16 THE COURT: Let's get him seated and then I'll
17 sum up what we talked about when he's here so I
18 don't have to go through all of it again.

19 MR. KOSKINAS: Say again?

20 (THE DEFENDANT ENTERED THE COURTROOM)

21 THE BAILIFF: Right this way, please. Have a
22 seat, please.

23 THE COURT: All right. Mr. Whitfield has
24 joined us. Earlier I just set the style of the
25 case, the two different case numbers, the charges

1 in those. We had a discussion about who was
2 sitting where, and then we talked about the defense
3 was -- you were going to call two additional
4 witnesses, right?

5 MS. SEIFER-SMITH: Yes.

6 THE COURT: One is here and available. The
7 other is not because, apparently, they were
8 injured. And we were starting to have some
9 conversations about whether we could substitute a
10 depo or some other testimony for the live testimony
11 so we didn't have to finish this on another day.
12 And now Mr. Whitfield has joined us. So let's
13 discuss whatever we can about the substituting
14 something for the live testimony of the witness who
15 is -- the name?

16 MR. KOSKINAS: Joseph Heer.

17 MS. SEIFER-SMITH: Detective Joseph Heer. My
18 understanding is he is not here because he was
19 injured and is out on medical leave.

20 On the second page of my motion to suppress in
21 paragraph three I reference Detective Heer's
22 deposition testimony. Page 12, lines 1 through 6
23 and 13 through 18 with respect to odd behavior of
24 Mr. Whitfield, indicating that upon contact with
25 Mr. Whitfield that Mr. Whitfield was smiling. And

1 the context for that contact is that Detective Heer
2 was a member of the SWAT unit that was involved in
3 the initial kind of destruction of Mr. Whitfield's
4 home and having Mr. Whitfield come out and be
5 detained by law enforcement officers.

6 So, obviously, I would -- if I was able to
7 call Detective Heer, I would have set the stage for
8 certainly, you know, like what his law enforcement
9 experience was, what his role was that particular
10 day with regards to being a SWAT officer. But the
11 purpose relevant to this particular motion was
12 really just to talk about like his brief engagement
13 with Mr. Whitfield and his observations of his
14 appearance and his demeanor, which were remarkably
15 not what you would expect from the circumstances,
16 i.e., smiling at officers.

17 So I would ask, given the circumstances, I
18 don't want to delay our work any further. I don't
19 know when Detective Heer would be available because
20 I'm obviously not privy to the nature of his injury
21 or his recovery. So if the State would be
22 amenable, I would just ask that your Honor maybe
23 rely on the deposition transcript. I understand,
24 obviously, this puts the State in an awkward
25 position not being able to cross-examine him. I

1 have copies of the transcript if your Honor would
2 like to review it yourself.

3 MR. KOSKINAS: So are you asking that the
4 entirety of the deposition be included or specific
5 portions?

6 MS. SEIFER-SMITH: I think that would be fine.
7 Most of it is not relevant to this hearing.

8 MR. KOSKINAS: Yeah, I'm okay, Judge. I'll
9 stipulate as long as it's the entirety of the
10 deposition. The reason I say that is because they
11 point out page 12, but when you go to page 11 it
12 talks about his specific demeanor. So I don't have
13 a problem, but I think -- for context I think the
14 entirety of the deposition needs to be reviewed.
15 So I'd stipulate if they're willing to have the
16 entirety of the deposition entered.

17 THE COURT: Which I think you said yes, right?

18 MS. SEIFER-SMITH: That's fine.

19 MR. KOSKINAS: There we go.

20 THE COURT: All right.

21 MS. SEIFER-SMITH: I mean, I would submit that
22 certainly his demeanor, his appearance, all of it
23 is very odd and pretty remarkable.

24 THE COURT: Are we gonna -- somebody got a
25 copy that I can mark as an exhibit?

1 MS. SEIFER-SMITH: Certainly, I can.

2 THE COURT: What are we calling it, Defense 1,
3 or do we already have some in?

4 MS. SEIFER-SMITH: I'm sorry?

5 THE COURT: Are we calling it Defense 1?

6 MS. SEIFER-SMITH: I don't believe I have any
7 exhibits in. I think everything I was going to
8 admit was admitted through the State, but I should
9 probably double-check with the clerk.

10 THE COURT: Defense 1, Madam Clerk?

11 THE CLERK: Or Court 1?

12 THE COURT: No, I don't --

13 THE CLERK: Okay. Defense 1.

14 THE COURT: I don't care. It doesn't matter.
15 Do you want me to call it Court 1 or Defense 1?

16 MS. SEIFER-SMITH: Defense 1 is fine.

17 THE COURT: Okay. Defense 1.

18 (DEFENSE'S EXHIBIT NUMBER 1 WAS RECEIVED IN EVIDENCE)

19 THE COURT: Since I haven't had a chance to
20 read that yet and the complexity of this, I'm
21 probably gonna be not in a position -- I mean, you
22 know my general practice is to rule from the bench
23 so everybody knows what I'm doing and look them in
24 the eye and say it, but I'm not sure -- it would be
25 hard without reading the deposition and the

1 relevant portions, plus everything else. I'm gonna
2 hear the testimony of this witness now. I'm just
3 not sure I'm in the position to do that right away
4 to be honest with you.

5 MS. SEIFER-SMITH: Understood.

6 THE COURT: All right. So who else are we
7 hearing from?

8 MS. SEIFER-SMITH: So now the defense would
9 call Detective Brian Burton.

10 THE COURT: And the last name for the clerk or
11 for madam --

12 MR. KOSKINAS: B-U-R-T-O-N, Burton.

13 THE COURT: All right. And who is the
14 witness -- what's the spelling of the witness not
15 available so madam --

16 MR. KOSKINAS: Joseph, last name H-E-E-R.

17 THE COURT: Heer?

18 MR. KOSKINAS: Yes.

19 THE COURT: Only not spelled like the normal
20 here.

21 MR. KOSKINAS: Correct. H-E-E-R.

22 THE COURT: All right. There you go,
23 Madam Court Reporter.

24 THE COURT REPORTER: Thank you.

25 THE BAILIFF: Stand here. Face the clerk.

1 Raise your right hand to receive the oath.

2

3 THEREUPON,

4

 BRIAN BURTON,

5 the witness herein, having been first duly sworn, was

6 examined and testified as follows:

7

8 THE BAILIFF: Have a seat here. Speak in a
9 loud and clear voice.

10 THE COURT: Good morning.

11 THE WITNESS: Good morning.

12 THE COURT: You may inquire, Counselor.

13 MS. SEIFER-SMITH: Thank you, your Honor.

14

DIRECT EXAMINATION

15 BY MS. SEIFER-SMITH:

16 Q Good morning. Can you please introduce yourself
17 to the Court.

18 A My name is Brian Burton.

19 Q Great. And could you spell your last name,
20 please.

21 A B-U-R-T-O-N.

22 Q And can you just give us a brief recitation of
23 your history with the St. Petersburg Police Department.

24 A I started be the department in 2005. No prior
25 law enforcement experience before that. Do you want me to

1 go through my history at the agency?

2 Q Yes, because I think some of it's relevant to
3 why you're here today.

4 A Okay. So after I completed the academy, I
5 served in the patrol division as a patrol officer and then
6 a field training officer. After that, I served in the
7 street crimes unit from 2008 to 2016. I served as a field
8 training officer again after that. I was promoted to
9 sergeant in 2016. I served as a patrol sergeant, a field
10 training officer, then the high liability training
11 sergeant, the downtown deployment team sergeant. After
12 that, I served in the special investigations unit as a
13 sergeant for the day shift, and after that I transferred
14 to the property crimes division as detective sergeant.
15 That's where I currently serve. In 2008 I joined the SWAT
16 team. It's a collateral duty, so you're doing that on a
17 part-time volunteer basis while you do your other
18 full-time jobs. And I've served on the SWAT team from
19 2008 until now. And I'm still on as a team lead.

20 Q Just to help orient us a bit because we're
21 talking about a case that occurred five years ago.

22 A Sure.

23 Q Were -- you were, obviously, on SWAT at that
24 time?

25 A Yes.

1 Q But what were your regular duties?

2 A At that time I was the day-shift sergeant for
3 the special investigations unit, which is essentially a
4 surveillance team.

5 Q Okay.

6 A That's the primary function.

7 Q And my understanding is that your initial
8 involvement with regards to any cases involving
9 Mr. Cornelius Whitfield was with the special
10 investigations unit; is that right?

11 A That was my first involvement, yes.

12 Q Okay. And that was -- or, I'm sorry. I'm
13 leading because I'm used to that as a defense attorney.
14 Can you tell me when that was, if you recall, even just a
15 general time frame?

16 A Roughly, during the week prior to the arrest.

17 Q Okay.

18 A With the SWAT team.

19 Q Just to orient us, Mr. Whitfield was arrested on
20 February 16th, is that right, of '21?

21 A Of 2021.

22 Q Okay.

23 A Correct.

24 Q Okay. So when you say the week prior, would you
25 say somewhere around like February 7th or 8th?

1 A I'd have to look at some documentation I don't
2 have, but it was approximately the week leading up to
3 this.

4 Q Okay. And can you tell me what that
5 surveillance entailed in terms of your specific
6 involvement.

7 A So we were requested to try to locate and arrest
8 Whitfield on a murder warrant. And it was the homicide
9 unit that was putting in this request.

10 Q Do you know who from the homicide unit had put
11 in that request?

12 A I'd have to check my report to see if I notated
13 it, but all that stuff usually comes through the chain of
14 command, not just the detective requesting it. There's
15 multiple levels of authority involved in using the
16 surveillance unit to go do something.

17 Q Okay. Were you personally actively involved in
18 surveillance of the home on Emerson Avenue?

19 A Yes.

20 Q Okay. And can you tell me what that personal
21 involvement actually entailed. Like, physically, like
22 what were you doing?

23 A At various times I was participating as a member
24 of the surveillance team in addition to being the
25 supervisor for the squad. So we had a perimeter around

1 the house itself. I was on different positions, as we all
2 are routinely, taking rotation, rotations on the eyeball,
3 rotations on perimeter, et cetera. So I did most of that.

4 Q Okay. I know you said that began about a week
5 before Mr. Whitfield's arrest on these cases. Can you
6 tell me during that week how intensive the surveillance
7 was. Like was it all day every day? Like what do you
8 mean?

9 A Yeah, it was 24 hours a day. We were on 12-hour
10 shifts relieving each other. So we did not leave the
11 house from the time we started that until we were told
12 you're done.

13 Q Okay. And during that time any signs of
14 Mr. Whitfield?

15 A No.

16 Q Okay. And what I mean by that question, if you
17 can answer, is you personally didn't see him and you heard
18 not a word from your colleagues about seeing him; is that
19 fair?

20 A Yes. Nobody from my team thought they saw him,
21 nor did I.

22 Q Okay. Was any contact attempted with the
23 residents in the home?

24 A Like from police officers trying to make contact
25 with the house? No.

1 Q Okay. Now I want to talk to you about your work
2 on the 16th of February. Can you tell me how you became
3 involved, not as a member of SIU, but rather as a member
4 of SWAT.

5 A Yep. So there was a SWAT activation, like an
6 emergency call-out, shortly after 4:00 p.m. We were all
7 already there because we'd just finished our training day
8 and were leaving. And so got the activation for that and
9 went straight to the field command post.

10 Q And this must have been a familiar location to
11 you because you had been observing it all week?

12 A Yes. When the call-out came out with the
13 address and the brief information -- I'm at work, so I was
14 able to turn on the radio and listen to the chatter about
15 about the location, the situation. It was the same place
16 I had already been at, and I had a pretty good idea of
17 what we were going there for.

18 Q Okay. And do you know why you were going, like
19 what the call-out --

20 A That there were shots fired, multiple gunshot
21 victims, yeah.

22 Q Okay. So, obviously, pretty heavy, pretty
23 serious?

24 A Yeah, it was an emergency call-out, for sure.

25 Q Okay. And once you got to Emerson Avenue, what

1 did you do?

2 A So I met with Lieutenant Hamilton, you know, at
3 the, you know, Hasty field command post, and he gave me a
4 very small team of guys that were there. And we were told
5 you guys are going to effect a rescue because there's
6 probably survivable gunshot-wound victims in the house,
7 including a little girl.

8 Q Okay. Can you tell me kind of what -- can you
9 unfold for us like what happened next in terms of like
10 what SWAT did?

11 A What we had there -- and, again, this is -- we
12 were already kind of all roughly together with all our
13 gear out for training. So there was already an armoured
14 tractor there we call The Rook. So myself and the three
15 other officers I had at the time hopped into the back of
16 that, took a short ride to the west side of the house. We
17 got off the truck and took cover and the truck started
18 tearing openings for us to make entry through.

19 Q Up until this point could you see anybody inside
20 of the home?

21 A From the exterior, no.

22 Q Okay. Could you hear anybody?

23 A No.

24 Q Okay. When The Rook started to tear the house
25 apart were you able to see anybody inside?

1 A Eventually, Mr. Whitfield presented himself from
2 inside the house, and that was after The Rook had torn a
3 large portion of the front of the walls of the house off.

4 Q Okay. When he, as you put it, presented
5 himself, was that pursuant to any kind of announcements
6 over the public address system?

7 A Yeah. There was another armoured truck that
8 arrived at some point in time and was using the P.A.
9 system to tell him to come out of the house.

10 Q Okay. So Mr. Whitfield presenting himself would
11 have been compliant with the public address announcements
12 and requests?

13 A That's correct.

14 Q Okay. And when you saw Mr. Whitfield, can you
15 tell me if you were able to observe like what he was
16 wearing, like what his appearance was?

17 A No shirt, some dark pants. He had like what I
18 call a COVID mask, a little fabric cloth mask that just
19 covers the lower portion of the face.

20 Q Okay. And at this time were you able to see him
21 well enough to make any kind of assessment as to his
22 demeanor?

23 A He had his hands up and he was compliant and
24 generally calm.

25 Q Okay. And did you get closer to him in order to

1 effectuate like the detention of Mr. Whitfield?

2 A He came to us. He was directed closer out of
3 the house away from the structure, almost all the way to
4 where we were on cover, and prone down on the ground like
5 with verbal commands.

6 Q So compliant with verbal commands; is that what
7 you were saying?

8 A Yes.

9 Q Okay. And would you say that he was like
10 preternaturally calm, like exceedingly calm given the
11 circumstances?

12 A You have to define that one for me, preter --

13 Q Sure. Was he like exceedingly calm given the
14 circumstances?

15 A He was very calm. As calm like you and I are
16 right now.

17 Q Okay. And I imagine, but I wasn't there, that
18 the environment outside was probably fairly chaotic?

19 A The presence of the big police trucks, yeah. At
20 the time he was coming out there's no destruction of the
21 house going on anymore. The Rook's moving offline. But,
22 yeah, there's two armoured trucks outside, several police
23 officers in gear with guns pointed at him.

24 Q Okay. And in terms of the general
25 circumstances, you also went into the home at some point;

1 is that right?

2 A Briefly after the arrest, yes.

3 Q You discovered that there were deceased people
4 inside the home?

5 A Correct.

6 Q And I don't know if you -- I don't recall if you
7 discovered or if a colleague did, but there was also a
8 child in the home; is that right?

9 A Yes.

10 Q Who was --

11 A I discovered a child. They were already
12 removed.

13 Q Okay. She was fine?

14 A Yes, as far as I know.

15 Q So, I mean, this is just all part of the
16 circumstances --

17 A Uh-huh.

18 Q -- that obviously had occurred prior to
19 Mr. Whitfield making any kind of contact with law
20 enforcement; is that fair?

21 A You're saying the presence of dead bodies?

22 Q Yes.

23 A Yeah, none of that happened in front of me.

24 Q Okay.

25 A They were already in the condition they were in

1 when I arrived there.

2 Q Okay. And when Mr. Whitfield was in front of
3 you, he displayed no emotion whatsoever; is that fair?

4 A That's fair.

5 Q Okay. He also did not say anything in your
6 presence; is that right?

7 A He didn't say anything.

8 Q Okay. And at a certain point in time while he
9 was still in front of you, his mask was removed; is that
10 right?

11 A Yeah, I removed it.

12 Q And you were able to see his full face at that
13 time?

14 A Correct.

15 Q And any change in his appearance or his
16 demeanor, his calmness?

17 A No.

18 Q Okay.

19 MS. SEIFER-SMITH: If I could just beg a
20 moment of the Court's indulgence?

21 THE COURT: Sure.

22 MS. SEIFER-SMITH: Nothing further.

23 THE COURT: Cross?

24 MS. TAKTIKOS: Yes, your Honor. Briefly.

25

CROSS-EXAMINATION

1
2 BY MS. TAKTIKOS:

3 Q When Mr. Whitfield exited the house, he was
4 given specific commands?

5 A Yes.

6 Q And he followed those instructions?

7 A He did.

8 Q Seemed to understand the instructions that were
9 being given to him by the police?

10 A He did.

11 Q And you indicated that he had no emotion?

12 A Right.

13 Q And is that unusual in these circumstances
14 when --

15 A I wouldn't say --

16 Q -- someone is being arrested either for murder
17 or some other crime?

18 A I wouldn't say it's unusual. It's always a
19 mixed bag. Some people run. Some are extremely agitated
20 and excited and argumentative. Some people don't say
21 anything at all for their own reasons. So he --

22 Q So just because he showed no emotion, just
23 because he was cold at the time, nothing unusual to that
24 in your opinion?

25 A Not from my --

1 MS. SEIFER-SMITH: Objection. This goes to
2 the ultimate issue. This is for the Court to
3 decide.

4 THE COURT: Yeah, I know.

5 BY MS. TAKTIKOS:

6 Q It's not unusual in your training and
7 experience?

8 A In my experience it's not unusual. Again,
9 there's -- it's a mixed bag. Some people are in one
10 category, some in another. Some people run and fight.
11 Some people cry.

12 THE COURT: We'll leave it at that. Go ahead.

13 MS. TAKTIKOS: No further questions.

14 THE COURT: Any follow up?

15 MS. SEIFER-SMITH: No. Thank you.

16 THE COURT: All right. Can we excuse the
17 officer?

18 MS. SEIFER-SMITH: Yes.

19 THE COURT: Thank you.

20 So we have the depo that I have to review.

21 For the record, I did -- I think I said it
22 already, but I don't know if Mr. Whitfield was in.

23 I had a chance to view and listen to the tape.

24 I've given it back to madam clerk. I still have to
25 review the depo. Do you guys want to sum up and

1 make argument, or what's your plan?

2 MS. SEIFER-SMITH: Yes. I mean, I would like
3 to make argument.

4 THE COURT: No, I understand. I mean, I
5 assume you can do it without me having to read the
6 depo.

7 MS. SEIFER-SMITH: Oh, from Detective Heer?

8 THE COURT: Yeah.

9 MS. SEIFER-SMITH: Yes. Yes, I think so.

10 THE COURT: All right. It's your motion. I
11 think you get to go first, right?

12 MS. SEIFER-SMITH: I mean, I think that filing
13 the motion means that it's the State's burden, but
14 whatever your Honor prefers I'm happy to address.

15 THE COURT: Who do you think is --

16 MS. SEIFER-SMITH: Sure. I can go first.

17 THE COURT: I mean, you think they should go
18 first?

19 MS. SEIFER-SMITH: I -- my understanding is
20 that by filing the motion that it is now the burden
21 of the State in order to prove to your Honor that
22 Mr. Whitfield's knowingly, voluntarily, and
23 intelligently waived his rights. But if your Honor
24 would like to hear from the defense first, I'm
25 prepared. I can move forward.

1 THE COURT: I agree that the burden -- yeah, I
2 think it can be argued either way. What do you
3 think? Do you want to go first?

4 MR. KOSKINAS: It doesn't really matter.
5 Court's preference.

6 THE COURT: I know in trial -- I know in
7 trials how we do it. In motion practice -- I don't
8 know. I've always thought the proponent of the
9 motion should go first so they get a little bit of
10 a rebuttal after the other side speaks, but it
11 doesn't matter to me.

12 MS. SEIFER-SMITH: Sure. Then I'll go.

13 THE COURT: Sure.

14 MS. SEIFER-SMITH: Okay. Would your Honor
15 like me at the podium or --

16 THE COURT: Wherever you're comfortable.

17 MS. SEIFER-SMITH: I'll go to the podium.

18 So I certainly will stand on our written
19 motion which was filed in December of 2025, but
20 also with regards to the evidence that's been
21 admitted, both the evidence admitted by the State,
22 as well as by the defense. And we would like to
23 renew all of our previous motions and objections up
24 to this point.

25 Certainly, the rights that are implicated here

1 are the rights against self-incrimination and the
2 rights to counsel as codified in the Fifth and
3 Sixth Amendments of the United States Constitution.

4 Now, the initial question that is asked of
5 your Honor is whether or not Mr. Whitfield was in
6 custody. *Miranda* has provided that those
7 constitutional guarantees are fully applicable
8 during a period of custodial interrogation.
9 That's, obviously, per *Miranda versus Arizona*,
10 384 U.S. 436, U.S. Supreme Court, 1966.

11 THE COURT: I'm not sure -- State, are we
12 arguing about whether he was in custody or not?

13 MS. TAKTIKOS: No.

14 MS. SEIFER-SMITH: Great. Okay. I'll move
15 on. We'll be quick.

16 So the next question, then, is whether or not
17 Mr. Whitfield knowingly, voluntarily, and
18 intelligently waived his *Miranda* rights. Now, the
19 validity of a *Miranda* waiver is essentially two
20 separate inquiries.

21 One, whether the waiver must have been
22 voluntary and that it was the product of free and
23 deliberate choice rather than intimidation,
24 coercion, or deception.

25 And, two, that the suspect must have waived

1 his rights with a full awareness of both the nature
2 of the right being abandoned and the consequences
3 of the decision to abandon it.

4 Neither -- and we would argue that
5 Mr. Whitfield's waiver was neither voluntary nor
6 intelligent nor knowing.

7 Now, two arguments underpin our position that
8 Mr. Whitfield's waiver was neither voluntarily,
9 intelligently, nor knowingly done.

10 First, which is that the detectives, now
11 officer Marrero and Detective Harris, impermissibly
12 diminished the Miranda warnings, which is akin to
13 deception under the voluntariness prong.

14 And, two, that Mr. Whitfield's clearly
15 abnormal mental condition impaired his cognition
16 and comprehension of the warnings.

17 So that first issue. The Miranda warnings
18 were minimized and downplayed in their
19 administration to Mr. Whitfield. The Florida
20 Supreme Court has held that a defendant must
21 possess a meaningful comprehension of both the
22 rights afforded to him and what is at stake by
23 their relinquishment. When the police administer
24 constitutional warnings in such a way that minimize
25 or downplay their significance, the purpose of

1 Miranda is undermined. And that's from
2 *Ross v. State*, 45 So.3d 403, at 428, which is a
3 Florida Supreme Court case, 2010, citing to another
4 Florida Supreme Court case, *Ramirez*, which is cited
5 in our motion. I think that the State has provided
6 copies to everybody.

7 Now, examples which were also cited in our
8 motion. In *Ramirez*, the police failed to
9 administer Miranda warnings until after the
10 defendant there had made significant admissions of
11 guilt. Moreover, just prior to administering the
12 warnings, one of the interrogating detectives
13 minimized their significance by suggesting that he
14 did not expect Ramirez to invoke. The Florida
15 Supreme Court found that officer's suggestion
16 tantamount to suggesting that Miranda has no
17 significance whatsoever.

18 In *Ross*, the court found that there were four
19 circumstances contributing to the detective's
20 minimization and downplaying of the Miranda
21 warnings, some of which are certainly applicable
22 here.

23 One, prior to providing Ross with his Miranda
24 rights, Detective Walter minimized the significance
25 of the rights by asserting they were only a matter

1 of procedure.

2 Two, prior to the warnings, the detective
3 lulled Ross into a false sense of security by
4 asserting that he was not arresting him at that
5 time.

6 Three, when Ross indicated a hesitancy in
7 talking, the detective did not stop the
8 interrogation immediately.

9 And, four, rather than informing Ross that his
10 prior incriminating statements could not be used
11 against him, Ross was reminded about his earlier
12 admissions, implying that exercising the right to
13 remain silent was futile.

14 So, in particular, the court wrote that by
15 referring to the Miranda warnings as a matter of
16 procedure, it indicated to Ross that the reading of
17 the rights was a mere bureaucratic formality which
18 improperly deemphasized the significance of his
19 constitutional rights.

20 Now I want to talk about the evidence in this
21 case from both the testimony from Officer Marrero
22 and Detective Harris, as well as the video of the
23 interrogation that your Honor has told us that you
24 viewed.

25 Now, Officer Marrero emphasized on numerous

1 occasions that she had, quote, silly questions to
2 ask Mr. Whitfield. This reference to silly
3 questions was repeated at least twice in advance of
4 the administration of the Miranda warnings. And
5 those silly questions had to do specifically with
6 Mr. Whitfield's cognition and his ability to engage
7 in the questions. With regards to those, quote,
8 silly questions, he was asked about prescription
9 drugs and he was asked about illicit drugs.

10 With regards to the questions about whether or
11 not he had imbibed anything, either illicit or
12 other wise, he said, "Probably so. I smoke so many
13 drugs. I smoke. I drink. I do all that."

14 When Detective Harris interjected to ask "Are
15 you on any medication?" Mr. Whitfield's response
16 was, "No, not at the moment," but there was
17 absolutely no follow up whatsoever to make any
18 determinations as to what that medication might
19 have been, what diagnosis, and whether or not it
20 was medication that could have assisted
21 Mr. Whitfield in his comprehension and cognition.

22 He was asked if he drinks alcohol, and he
23 indicated that he does, but that he was not under
24 the influence at that time.

25 With regards to illegal drugs, Mr. Whitfield

1 admitted that he smoked some weed earlier, and
2 there was no inquiries as to whether or not he was
3 under the effects of it.

4 Further with regard to the silly questions per
5 the editorializing by Officer Marrero, she then
6 asked if he -- about his ability to like truly
7 engage in terms of comprehension, whether or not he
8 can read, if he can write, if he can hear.

9 With regards to question can you read, he said
10 "not real good."

11 "Can you write?" He shrugged and said "I
12 guess."

13 "Can you hear? I told you these questions
14 were silly."

15 There was no attempt by Officer Marrero or
16 Detective Harris to ascertain if Mr. Whitfield
17 could actually read, if he could actually write.
18 All of the handwriting on the form that we have
19 admitted into evidence through the State is all --
20 all Officer Marrero's with the exception of a
21 signature, alleged to be Mr. Whitfield's, although
22 it's illegible, and Detective Harris.

23 Now, she then turns to, quote, the serious
24 questions. Although, it's disarming because she
25 and Detective Harris then laughed through those.

1 In terms of the warnings themselves, they were
2 read swiftly by Officer Marrero. There was no
3 hesitation to have Mr. Whitfield affirmatively
4 explain his rights in his own words. When there
5 were pauses, there was no rereading of any of the
6 rights. And, again, she never had him read or
7 write anything to test his comprehension. Never
8 said explain what those rights mean to me -- means
9 to you, rather, in your own words.

10 And specifically with regards to the question
11 you have a right to have an attorney the present
12 while you're questioned, do you understand that, he
13 said, "Yeah, right. You just made me think of
14 something." There was no further inquiry. He has
15 interjected in the very middle of his
16 constitutional rights and law enforcement carried
17 on just reading as though nothing had happened.

18 Now, this is what's contemplated by the
19 U.S. Supreme Court and by Florida Supreme Court --
20 the Florida Supreme Court. Where there is even an
21 equivocal request for an attorney or an equivocal
22 question about the presence of attorney, the police
23 must, must cease all questioning until the meaning
24 of the request or statement is clarified. And if
25 the police fail in its requirement, all portions of

1 the confession occurring after the request must be
2 suppressed. And that is how we must read
3 Mr. Whitfield's interjection, "Yeah, right. You
4 the just made me think of something" in response to
5 the question "you have a right to have an attorney
6 present while you're being questioned; do you
7 understand?" That's per *Edwards v. Arizona*,
8 451 U.S. 477 in 1981. Also cited in *Thompson*,
9 which is a Florida case, 548 So.2d 198, 1989, a
10 Florida Supreme Court case.

11 And then, finally, Mr. Whitfield exhibited
12 obvious signs of either intoxication or mental
13 illness that clearly impacted his ability and his
14 capacity to comprehend his constitutional rights
15 through the Miranda warnings.

16 In considering the voluntariness of a
17 confession, this Court must take into account a
18 defendant's mental limitations to determine whether
19 through susceptibility to surrounding pressures or
20 inability to comprehend the circumstances that
21 confession was not a product of his own free will.
22 This is *Jurek v. Estelle*, 623 F.2d 929, at 937, the
23 Fifth Circuit, 1980. Cert was denied, but it's
24 quoted in *Thompson v. State*. I gave the cite
25 earlier.

1 The *Thompson* court noted that of central
2 concern is that a mentally deficient accused's
3 vulnerability to suggestion undermines their
4 knowing waiver and -- excuse me, their voluntary
5 waiver.

6 The Supreme Court of the United States has
7 held that a mental defect such as intellectual
8 disability or severe mental illness is a factor
9 that must be considered in the totality of
10 circumstances to determine the voluntariness of a
11 confession. That's from *Simms v. Georgia*,
12 389 U.S. 404, in 1967.

13 Now, I will concede that there the confession
14 was suppressed as to an illiterate defendant with a
15 third grade education with decidedly limited
16 intellectual abilities who was interrogated for
17 eight hours. But this is certainly still the
18 premise under which the Court must look at the full
19 circumstances.

20 Now, the totality of the circumstances that we
21 know from Florida cases indicates that a
22 defendant's personal characteristics are to be
23 considered in assessing whether he has fully
24 comprehended the magnitude of the rights with which
25 he is viewed and may waive by electing to speak

1 with law enforcement. Now, this includes whether
2 the defendant has a mental health condition that
3 impairs cognition and the ability to process
4 complex legal warnings, which is exactly what the
5 Miranda warnings are.

6 This Court should be concerned by any
7 circumstance that may undermine comprehension,
8 including whether a defendant was intoxicated or
9 sleep deprived or whether a defendant is under the
10 effects of a mental illness. This Court is to give
11 substantial weight to such factors when evaluating
12 the knowing and intelligent nature of a waiver.
13 That's *Traylor* and from *Ramirez*, both cited in the
14 defendant's motion.

15 Here Mr. Whitfield's behavior clearly betrayed
16 the existence of a mental impairment, either mental
17 illness or intoxication, one that imbued him with
18 paranoia, persecution, and clear delusion. Prior
19 even to the entry of the detectives, Mr. Whitfield
20 was engaging in behavior that was odd and
21 unnatural.

22 From the deposition of Detective Heer, as well
23 as the testimony today from Sergeant Burton, your
24 Honor heard that upon contact with law enforcement
25 that Mr. Whitfield's behavior was not normal. It

1 was strange. It was preternaturally calm. It was
2 odd. Before the detectives actually enter into the
3 interrogation room, you can see that Mr. Whitfield
4 is staring at things that aren't there. He is
5 engaging in internal stimuli. His behavior is
6 markedly odd and not normal. This is behavior that
7 persists throughout the six hours of the
8 interrogation video that includes times when the
9 detectives are in the room with him as well as when
10 they are without.

11 Both Officer Marrero and Detective Harris
12 testified last week that Mr. Whitfield engaged in
13 inappropriate giggling and laughter throughout the
14 interrogation, not just during the questioning, not
15 just before the questioning, but throughout their
16 entire time with him. Moreover, he was not
17 responsive to questions, indicating he -- and both
18 Officer Marrero and Detective Harris testified that
19 this meant that he would either not respond
20 directly to a question or he would respond
21 tangentially to a question or even talk about
22 something totally irrelevant to the question,
23 indicating that his capacities and his
24 comprehension were impaired.

25 He engaged in physical behavior that was odd.

1 He rubbed his hands together over and over again.
2 He looked into the distance like he was engaging
3 with things that weren't there. He looked at the
4 ground a great deal. He was not making eye
5 contact. His behaviors and statements were so odd
6 that Detective Harris indicated he normally would
7 not make any comment of those, but he spent several
8 pages in his report documenting some of them, and
9 this was during the time in the interview room.

10 Detective Harris also testified that there
11 were definite signs that Mr. Whitfield was going
12 through something. From the outset, Mr. Whitfield
13 had stated that he was hearing things in his head,
14 that he was hearing voices that were telling him to
15 do things and things not to do. He spoke about how
16 he was phobic of electronics, including the phone
17 and including the television. He explained that
18 people can disguise their voices and that they can
19 talk him into things.

20 He spoke also, Mr. Whitfield, about how mental
21 things were going on and that people were
22 influencing his thoughts, that people were mocking
23 him. He exhibited a great deal of confusion and an
24 enormous deal of paranoia. This was evident
25 throughout law enforcement engagement with

1 Mr. Whitfield.

2 Moreover, I would just remind this Court that
3 at the outset Mr. Whitfield had indicated that he
4 was not under the influence of any prescription
5 medication, quote, at the moment, implicating that
6 he was supposed to be taking medication pursuant to
7 some diagnosis. This went un-inquired.

8 The Court is to look at the totality of
9 circumstances in determining whether
10 Mr. Whitfield's purported waiver of his Miranda
11 rights was done in a voluntary, knowing, and
12 intelligent manner. Review of the totality of the
13 circumstances, we submit, indicates that the manner
14 and conditions of the interrogation, coupled with
15 the actual viewing of Mr. Whitfield's incredibly
16 bizarre behavior and the manifestations of his
17 mental capacity and comprehension at that time
18 render the waiver invalid in that he neither
19 appreciated the nature of the rights that he was
20 abandoning nor the consequences of a decision to
21 abandon those rights.

22 THE COURT: Thank you.

23 MR. KOSKINAS: All set?

24 THE COURT: State?

25 MR. KOSKINAS: Judge, the State previously

1 provided the standard to the Court, which is
2 *Ramirez v. State*, and I don't know if you have a
3 copy, Judge. If not, I've got another one here for
4 you.

5 THE COURT: I do. Go ahead.

6 MR. KOSKINAS: You do?

7 THE COURT: I got it in there. I got a whole
8 pile of stuff, but I'll take it anyway on the off
9 chance that I don't.

10 MR. KOSKINAS: Okay. Here you are.

11 THE COURT: Thank you.

12 MR. KOSKINAS: So, essentially, Judge, you
13 just heard from the defense about the video that
14 speaks for itself. The Court can make its own mind
15 up about the position of the defense as to what the
16 video says and what the video does not say.

17 The State would not agree with the defense's
18 proposition for many of the allegations that they
19 have made. Essentially, the defense is looking at
20 it through, in the State's position, a defense
21 attorney's lens in order to watch this videotape.
22 They assume all kind of standards and burdens on
23 the State that do not exist, Judge, and they've
24 clearly argued them to you here today.

25 They indicated to you there's no evidence that

1 they attempt to ascertain whether he could read,
2 meaning the defendant, Mr. Whitfield. You mean
3 other than on the videotape when the officer
4 specifically asked the question to Mr. Whitfield,
5 Can you read, and he responds yes. So I'm not sure
6 where they're getting that from, Judge.

7 It seems as though they want an additional
8 burden of we can't rely on your testimony that you
9 can read, but we have to do independent
10 examinations to determine that you can read. So I
11 guess we should suggest that he falsely indicated
12 that he could read. We should then do some kind of
13 testing to ensure that he can read. And if that's
14 accurate, Judge, which is not the standard by the
15 way. If that was accurate, you would have to
16 independently evaluate these individuals for each
17 and every one of the questions.

18 They go on to argue, Judge -- and I just want
19 to point these things out because they are trying
20 to artificially impose a burden on the State that
21 does not exist pursuant to *Ramirez*. They went on
22 to say that they took no effort, made no attempt
23 to, and I quote, explain what these rights mean to
24 you. So that's not part of the legal criteria,
25 Judge. I assume what they mean is they didn't take

1 independent or other evidence or questions to
2 determine if this was a subjective right. Their
3 obligation is to inform the defendant of the rights
4 and whether he comprehends those rights. It's not
5 to subjectively determine, oh, how do you feel
6 about these rights as opposed to somebody else.
7 The rights have been deemed clear in their
8 position, and the writing has determined multiple
9 times to be adequate and sufficient for
10 comprehension. But apparently that's not good
11 enough.

12 So they indicated that there was no evidence
13 of -- or, excuse me, they indicated that the
14 defendant was under the influence of intoxication
15 or mental illness and that wasn't ruled out. There
16 is no obligation to independently evaluate a
17 defendant for purposes of mental illness prior to
18 Miranda. That doesn't exist. So, again, their
19 arguments are all based on positions that a
20 burden -- for burden on the State that does not
21 exist.

22 It sounds as though they would require or
23 suggest that it's required that a mental health
24 examination take place prior to Miranda. We know
25 that's not the standard, Judge.

1 However, the tape demonstrates on its own the
2 opposite is true. So the defendant is responsive
3 to Detective Harris' questions. The defendant is
4 responsive, demonstrating comprehension to all the
5 questions put forward to him, including the
6 questions about whether he can read.

7 So Detective Harris, in addition to
8 Detective Merraro now, indicating specifically line
9 by line the approved Miranda form and his
10 responses, in addition to that Detective Harris is
11 there to further reiterate to Mr. Whitfield, and he
12 does so repeatedly -- the tape speaks for itself --
13 that we can't talk to you unless and until you
14 agree to speak with us. You know, there's nothing
15 more we can do. And they specifically reiterate
16 that over and over again. It's at that point that
17 the defendant does in fact indicate that he wishes
18 to speak to them.

19 So, Judge, the only thing I would point out to
20 the Court is the standard which is pursuant to
21 *Ramirez*. The defendant -- is the manner in which
22 Miranda rights were administered, not only were
23 they verbally administered to the defendant, but he
24 was also given the opportunity to review, which he
25 did, the written Miranda form in front of him. And

1 if you watch the tape, it's clear evidence that he
2 is looking down in an apparent attempt to read the
3 Miranda forms before signing it. He takes his time
4 in doing so.

5 So they also point out the suspect's age,
6 experience, and background. You heard through
7 evidence that this is not the first time this
8 defendant has been through this. In fact, there's
9 evidence of that on the video itself. But in
10 addition to that, you've heard testimony from the
11 officers that indicated they have knowledge that
12 the defendant has previously gone through this
13 exact situation where Miranda was read to him and
14 that he was interviewed by the police.

15 There is no question of custody. They go out
16 of their way to indicate to the defendant that he
17 is not free to leave. Everything is laid out for
18 the defendant. They, in *Ramirez*, point out the
19 location of the questioning, and that's why I go to
20 that. They, in addition to having him at the
21 police station, go out to indicate to him that he
22 is actually not free to leave.

23 And finally, Judge, one of the criteria that
24 they wish that you will consider or they require
25 you to consider is whether the interrogators

1 secured a written waiver of Miranda rights, which
2 they did. And that's pursuant to *Ramirez*.

3 Judge, as a whole, the State is of the
4 position that the defendant did knowingly,
5 voluntarily waive his Miranda rights as
6 demonstrated by the video. And these artificial
7 burdens that the defense is asking you to place on
8 the State do not exist. So don't be confused by
9 the law. Thank you, Judge.

10 THE COURT: Any brief response?

11 MS. SEIFER-SMITH: No.

12 THE COURT: All right. I'm gone next week, so
13 I'm trying to figure out -- I'm back that Tuesday,
14 which is the 7th or 8th. I'm probably going to
15 have you come back on the 10th, if that's okay, at
16 11:00 a.m. of April because I know the trial is on
17 the 18th of May. Are we still of a mind that we
18 think we're gonna be ready on the 18th?

19 MS. SEIFER-SMITH: We are cautiously
20 optimistic.

21 MS. TAKTIKOS: We got our witness confirmation
22 back, your Honor, and I'm going through to make
23 sure that we have all the witnesses that are gonna
24 be deemed necessary for both the State and defense.

25 THE COURT: All right. I think when I --

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF PINELLAS)

I, Carla Jessal, Registered 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 20th day of May, 2026.

/s Carla Jessal

Carla Jessal

Registered Professional Reporter