FL v. Jamell Demons-PT

(2:31 - 2:35)

All right, next line is presiding. Please be seated. Morning, Kevin.

(2:36 - 3:13)

Good morning. Morning, Kevin. Good to see you, people.

(4:46 - 4:54)

Just feel good, Kevin. All right, sir. Thank you, sir.

(4:59 - 5:13)

Right here is a good place. Yeah. I guess we're, maybe, okay, that's good, yes, okay, okay, got it.

(6:00 - 6:23)

I'm not on the record just yet, Ms. Buckley, how are you doing this morning? I'm well, your honor, how are you? Good, the other gentleman on my docket, Aljaz Hussein, that's Ms. Green's case. I can re-judge him. Yeah, there was a, it's a new indictment, so the court put him on, I guess, for an arraignment today, but I don't know if she knew that that was happening.

(6:23 - 6:30)

Maybe not. At whose defense? Neil Kirch. Okay.

(6:36 - 6:51)

Did they have a future date? I thought I was seeing one like December the 1st or something. I'll give her a call after that. Yeah, he was set December the 1st, I was going to give him a new trial date when we were all together December the 1st.

(6:52 - 7:00)

Oh, excuse me, Neil Kirch is not, Mr. Simon, right? Yeah, Janito Simon. Okay. Mr. Simon is his lawyer.

(7:01 - 7:28)

Even if Ms. Green can just pop on Zoom real quick, that would be great. Sure. Hi.

(8:06 - 8:12)

She's going to call Mr. Simon now and see if they can book him. Okay, thank you. I appreciate

everyone's patience to share with me.

(11:32 - 11:38)

Here, may I have that? Yes. Might be good. Yes.

(11:38 - 11:57)

Here you go. All right, let me go on the record. This is on the middle and bottom of my page 2, LJuice Lussain.

(11:57 - 12:06)

Top of page 3, LJuice Lussain. Ms. Green, I see you on the Zoom call. Can you hear me? Yes, I can, Judge.

(12:06 - 12:10)

Good morning. Mr. Simon, I see you on the Zoom call. Can you hear me? I can.

(12:10 - 12:15)

Good morning. Good morning. I've got LJuice Lussain present in the courtroom.

(12:16 - 12:23)

I know I had you all coming back December the 1st. I was going to give him a new trial date. Ms. Green, I am aware that there was a superseding investment.

(12:24 - 12:39)

The clerk's office has them on today, I guess, because of the magistrate. And then they also have Wednesday for arraignment. Did you want me to – what would you like me to do, Ms. Green? I can reset his arraignment to another date if you want me to do that.

(12:40 - 12:52)

We were under the impression that it was Wednesday, but it's okay. Mr. Simon is okay with the arraignment today. Mr. Simon, if you didn't have advance notice of this, I'm happy to keep it on for Wednesday.

(12:53 - 12:58)

Do you have any objection if I go forward this morning? No objection, Judge. We're going to go forward. Okay.

(12:59 - 13:12)

All right, so I'm looking at the new indictment. It looks like it's dated November 13th, maybe, 2026? Well, it's November 12th. Yeah, November 12th, 2026.

(13:13 - 13:26)

So, count one is first-degree murder, count two is robbery. Mr. Simon, you're going to enter a plea of not guilty? Yes, I'll enter a plea of not guilty. I think we're good on discovery after jury trial and formal arraignment.

(13:26 - 13:34)

Okay. So, Ms. Wilcox, we can delete the November 25th arraignment date. That's taken care of.

(13:35 - 13:41)

I'll ask both sides. Ms. Green, let me ask you first, because I have talked to the jury room. I think I can get you a new trial date.

(13:41 - 13:56)

It's not too far in the future, but you want to discuss that on December 1st? You want me to leave them on December 1st, as previously said? That would be great. Okay. Mr. Simon, any objection to that? Yes, I do.

(13:56 - 14:00)

All right. So, Mr. Lussain, I'm going to delete you from Wednesday. We handled the arraignment.

(14:00 - 14:17)

But I'm going to see you as originally scheduled December 1st, which is a Tuesday. I'm going to give you all a new trial date, because Jorhan Lussain's trial is starting the next day, December 2nd. But I'll give you a new special set trial date, but we're all here in person December 1st.

(14:17 - 14:33)

Ms. Green, and that says to all three of his cases, Ms. Wilcox. The other two cases, the two probation cases, excuse me, on the top and bottom of page 2, those will also remain set December 1st. I'll give it a new final DOP date at that time.

(14:33 - 14:44)

Ms. Green, regarding Mr. Lussain, anything else I can do for you this morning? No, I'm going to say, Your Honor, thank you. All right. Mr. Simon, anything else I can do for you this morning?

Nothing, Your Honor.

(14:44 - 14:47)

Appreciate your time. All right. I appreciate everyone getting on the call quick.

(14:48 - 14:54)

So, Mr. Lussain, I'm going to see you on Tuesday, December 1st. I'm going to give you a new trial date, a new final DOP date at that time, sir. Okay.

(14:54 - 15:10)

I'll see you then. All right. So then, otherwise, on the bottom of page 3 and the top of page 4 is Marcel Pernides and Shaquille Walker.

(15:11 - 15:23)

As soon as the jurors are all back, they're going to go right back in the jury room and resume their deliberations. And we'll otherwise wait to hear from them. That leaves on the top of page 2, Jamel Demmons.

(15:24 - 15:37)

He said today, we lost the Friday hearing date because of the courthouse closure two days last week. But I've set this time aside to hear all pending motions. I've got Ms. Bucklew and Mr. Griffiths present for the state in person.

(15:37 - 15:47)

I've got Ms. Collins on the Zoom call for the state. I have Ms. Howlett, Mr. Finley, Ms. Abman. Am I waiting for Mr. Kelly here? No, Your Honor.

(15:47 - 15:54)

Okay. Present for Mr. Demmons. So as soon as I get Mr. Demmons present, we'll take a quick recess as soon as he's present.

(15:55 - 16:49)

We'll put some things on the record, and then we'll get going as to the all pending motions. Quick recess to get everyone present. Yeah, Gary, that's fine.

(17:09 - 17:31)

Okay. Fence, you ready for me to go back on the record? Yes. Okay.

(17:32 - 17:40)

Mike, you good? Yes. Okay, so now I've got Mr. Demmons present as well with his counsel. So let me just put a couple things on, and then we'll get going.

(17:41 - 17:51)

Again, I'm not going to limit either side's presentation in any way. Each side can put whatever evidence, witnesses, or testimony they want. Just save your argument until the appropriate time.

(17:51 - 18:07)

I'll tell you when I need the arguments because I'm going to need some of them in front of others. But in preparation for our hearing, I did read all the following, which would include all the authorities cited therein. I'm going to try to do these in chronological order.

(18:08 - 18:26)

The state's motion and limited to exclude the testimony of Michelle Boutros and Christine Bradley. That's electronically filed December 17th, 2023. The defense motion to suppress evidence obtained from Instagram, Snapchat, Google, and iPhone, pursuant to warrants issued March 21st, 2024.

(18:26 - 18:45)

That's electronically filed October the 9th, 2026. I did also review a notice of alibi that was filed by the defense on October 19th, 2026. I reviewed a defense supplemental witness list that was electronically filed November the 10th, 2026.

(18:46 - 19:04)

I reviewed a defendant's motion limiting to exclude rap lyrics and or videos from the trial of his case. That's electronically filed November the 10th, 2026. A defense motion limiting to exclude timing advance records electronically filed November the 13th, 2026.

(19:06 - 19:45)

A defense motion to allow a witness to testify by Zoom. That's electronically filed November the 16th, 2026. A state's memorandum of law in opposition to the defendant's motion to suppress evidence from Instagram, Snapchat, Google, and iPhone, pursuant to warrants issued March 21st, 2024.

(19:46 - 20:00)

It doesn't appear on CMS as of yet, but it was signed November 16th, 2026. And I do have a

complete copy. The state's motion to strike defendant's supplemental witness list filed November the 10th, 2026.

(20:00 - 20:16)

That's electronically filed November the 18th, 2026. The state's motion to strike defendant's motion to suppress evidence obtained from Instagram, Snapchat, Google, and an iPhone, pursuant to warrants issued March 21st, 2024. That's electronically filed November 18th, 2026.

(20:17 - 20:37)

The state's motion to strike the defendant's motion limiting to exclude timing advance records filed November 13th, 2026. That is electronically filed November 18th, 2026. The state's motion to strike the defendant's motion limiting to exclude gang evidence and related gang expert testimony filed November 13th, 2026.

(20:37 - 20:54)

That is electronically filed November 18th, 2026. The state's motion to strike the defendant's motion limiting to exclude rap lyrics and or videos filed November 10th, 2026. That was electronically filed November 18th, 2026.

(20:55 - 21:23)

So again, I did review all those pleadings as well as the authorities cited therein. I reviewed at great length a United States Supreme Court case called Murray, M-U-R-R-A-Y versus the United States, 108, Supreme Court 2529. It's a Supreme Court case from 1988, a case called State versus Reddick, 415, Southern Third, 1185.

(21:23 - 21:37)

It's the first DCA case from 2025. There's others that I will put on the record as they pertain to each individual motion that we're arguing. So again, I'm not going to limit either side in any way.

(21:38 - 22:02)

Logically, it would seem that I should hear the state's motions to strike first, depending on those outcomes, and we'll proceed from there. So state, any objection if I do that? No, Your Honor. Defense, any objection if I do that? No, Judge, except I was just going to make it a little bit easier for you as to the motion to motion eliminate regarding the timing advance records.

(22:03 - 22:22)

We are withdrawing that motion at this time, and we'll address it at whatever time that the state intends to introduce those records. All right, so the defense motion eliminated to exclude timing

advance records that was electronically filed November 13th, 2026. You want to withdraw that in open court, and you'll make whatever appropriate objection if you decide to at whatever time you want.

(22:24 - 22:38)

All right, so I'll enter an order today. That one's going to be withdrawn in open court. As to each of these, if I can rule from the bench, we'll give you a copy of the order today.

(22:39 - 22:53)

If it's something that's going to require a more detailed written order, I will give all the parties a detailed written order in due course. So, state, who's ever going to argue if each of the motions is a strike, we can just take them one at a time. Just tell me which one you're doing first.

(22:54 - 23:13)

Whenever you're ready, you can proceed. We can start with the state's motion to strike the defendant's motion to suppress all of the new warrants. Okay, so I did read the motion.

(23:13 - 23:25)

I did read any authority that cited any of these. I also did read the motion to outline a special set trial order that I previously entered. So, Ms. Buckle, whenever you're ready, you can proceed.

(23:25 - 23:48)

Your Honor, the state feels as though the motion to strike really says it all, and we have nothing to add unless there's something else added by defense. Okay, so defense, your position on the state's motion to strike. Your motion to suppress the evidence obtained from Instagram, Snapchat, Google, and iPhone pursuant to warrants issued March 21st, 2024.

(23:48 - 24:01)

Whenever you're ready, you may proceed. Thank you, Judge. First, I would just point out, and with all due respect, the order had an April 2025 deadline.

(24:03 - 24:17)

I appreciate that was probably a typographical error, but all of the state's motions to strike cite that date as the deadline. No, I'm sure it wasn't. I just keep the same deadline even if I issue a new trial.

(24:17 - 24:28)

I think the order wasn't even entered until August of 2025. Yeah, I mean, I'm pretty sure that was

correct. That's usually my normal practice.

(24:28 - 24:51)

To enter the order in August for the past April? Well, because it would have had the same cutoff date as an earlier order that I entered for an earlier trial date. I never move the deadline unless, again, pursuant to the trial date, someone comes and asks me to do so. By the way, not that this means anything or affects my decisions today, but I don't think that I've ever denied anyone's request to move the deadline.

(24:52 - 25:19)

If they just filed the appropriate written motion and asked me to, I think I've created that 100% of the time. Yes, and so, Judge, with all due respect, the order was entered at a time when the state was moving to stay everything. So we just kind of assumed that order stayed, as well as, as you know, we have been in front of this court for months with various motions.

(25:20 - 25:32)

And discussions about more motions that were going to be filed and hearings to be filed. So I have two things I would like to say about the cases. The state sites are really inopposite.

(25:33 - 25:54)

These are motions that are filed and never set for hearing prior to trial. And so the courts, you know, said, that's pretty bad timing, understandably. But I think this court knows there are numerous cases about striking witnesses, striking motions on timing.

(25:55 - 26:06)

So this court has always said, you will make yourself available for hearings. We have filed hearings. I also would like to outline a little bit about the procedural history.

(26:07 - 26:30)

So when the court entered this order, we were not counsel of record. It was being, it had just recently been disclosed that the state had obtained the defense lawyer's personal phone records. And so there was this whole issue about, frankly, conflicting defense counsel off.

(26:30 - 26:55)

So for the state to say, gosh, he's been through so many lawyers, they waited over a year, they never even disclosed the warrants on Ms. Liberty's phone. It was only because Ms. Liberty learned about it a year later that they realized there are some ethical issues with them continuing as counsel for Mr. Dennis. So just putting it in context in terms of procedural.

(26:55 - 27:07)

So Mr. Finling and I got involved in the case. While the case was on appeal, I did the oral argument. So I had to get up to speed, obviously, on all the appellate issues.

(27:08 - 27:24)

We then promptly turned around and prepared diligently for the tampering of witness case that was scheduled in January. I believe it was scheduled for January 20th. January 18th was a holiday.

(27:25 - 27:47)

We came here January 19th. We were prepared to go forward with what the state had represented would be a lengthy trial and learned when the state came to the podium that they were not processing that case after we worked, of course, days and nights to get ready for the case. Since then, we have filed numerous motions in this case.

(27:48 - 28:10)

So I think it's a little unfair to say we have not been diligent. We had to review a record of weeks of prior trial testimony as well as all of the witnesses' depositions, et cetera, et cetera. So first, I would say we clearly have been diligent in this case.

(28:10 - 28:20)

I've done a lot of capital work. I've never gotten things ready in less than a year, but we're going to be ready in January. And then there's two other things I'd like to mention.

(28:21 - 28:42)

The state has announced its intention to seek Mr. Demond's death should there be a conviction. And yet they want to prevent him from defending himself by moving to strike legitimate legal motions. And I think that's unfair and not appropriate.

(28:42 - 28:58)

Second, frankly, Judge, I've never had a prosecutor in a capital case. And I've done a lot of capital cases. I've never had prosecutors urge the judge to make what would be clearly reversible error by not hearing appropriate motions prior to trial.

(28:58 - 29:09)

So that seems to be what the state is asking this court to do. I would submit that you can scold us for not doing it sooner. We're doing what we can.

(29:09 - 29:30)

We're filing what motions we can. We are preparing so that we will be ready to go on a date that is almost eight years since Mr. Demond's has been incarcerated. Let me put aside the one about the supplemental witness list, but that's your same response to all the other motions? Yes.

(29:30 - 29:45)

All right, Ms. Buckle, I'll give you the last word again. I'm putting aside the motion to strike the supplemental witness list. But as to the other motions, the motion to suppress, I guess, the timing of advance records, that's not as new at this point.

(29:45 - 30:02)

The motion in limine regarding the gang evidence and related gang expert testimony. And the motion to strike or the motion in limine regarding the rap lyrics and or videos. Anything else you want to tell me as to those? Judge, I would just reiterate that these motions are substantive in nature.

(30:02 - 30:44)

They go to very serious parts of this case that the state plans on presenting evidence relating to. And if the court is not inclined to strike these motions due to the late nature of them, considering the amount of work that they would take for the state to prepare for them, hire witnesses, including the experts that we might have to hire, considering there were experts listed, I believe, I think, for some of these motions. If the court is not inclined to strike them, then we would be asking for a brief continuum to allow the state to actually conduct our investigative portion of this case, prepare properly for these types of motions as they are substantive in nature and would affect the state's presentation.

(30:46 - 31:23)

And Judge, can I add one? And that is our motions could be raised at trial with regards to the lyrics and the gang evidence. As we've always talked in here about trying to resolve issues pre-trial rather than have lots of bench conferences, we can make the same objections at trial. The state has listed rap lyric experts, one of which since September I've been emailing the state as to whether they intend to call them and have not gotten a response.

(31:24 - 31:41)

The state has listed gang experts. So our desire, obviously, is to litigate the admissibility of that evidence. I don't know, I really don't know what the state is going to do.

(31:41 - 31:48)

Hire more experts. They have listed a lyric expert. They have listed a gang expert.

(31:49 - 32:00)

We are rebutting their experts with experts. So it's not as though this is something new or different. Okay.

(32:01 - 32:15)

All right. So let me do these one at a time. As to the state's motion to strike the defense motion, let me exclude the timing advance records that was filed November 13th, 2026.

(32:15 - 32:35)

I'll enter written order today. That one is moot as the defense has withdrawn that motion in open court. The state's motion to strike, the new motion is to suppress, which I'm intending to hear today and tomorrow and Wednesday.

(32:37 - 33:04)

So, listen, I would like everyone to comply with the orders. I will just enter them as an academic exercise. And if you need time or you need the deadline to be extended, if you file the written motion, which, again, is what the order contemplates, again, I usually will grant you that time, besides some of the defense counsel's points being well taken, and besides the fact that the death penalty case is a highly due process.

(33:04 - 33:21)

The bottom line is they're correct that they don't even have to file these motions to suppress. They can just stand up and object at the trial on any of these issues. I'd rather resolve it ahead of time as opposed to delay and sticking a jury in the back where we'll figure all these things out.

(33:22 - 33:35)

I do consider it to be a discovery violation, and I do consider it to be a violation of my trial order. But that withstanding, I don't think I have any choice except to deny the motion to strike. I'll hear the issues now.

(33:36 - 33:54)

I don't think it requires preparation as to the motion to suppress. I'm going to do that right now. So after that one, the motion to strike is going to be denied regarding the motion to suppress Instagram, Snapchat, Google, or iPhone pursuant to the warrants issued March 23rd, 2024.

(33:54 - 34:12)

Defense, you're making a motion that I extend the discovery deadline to allow for the filing of these motions on November 18th. Is that correct? That is correct, Judge. And actually, we'll file a written motion to extend it further because we also want other issues resolved prior to that.

(34:12 - 34:16)

Okay. Well, I'll address that as it comes. But that one is going to be denied.

(34:16 - 34:35)

Regarding the motion to strike, the defendant's motion limited to exclude gang evidence and related gang expert testimony. Again, any party can stand up and make an objection at the trial regarding probative value versus prejudicial unfair prejudice or relevancy. Again, I would rather resolve these ahead of time.

(34:37 - 34:52)

State, I'm going to deny that one. And as we get into it today, tomorrow, Wednesday, if you're telling me – because all these are going to require that I need to know what is the evidence that you would like to present. And some things may not be able to be resolved pre-trial that I can resolve in a vacuum.

(34:52 - 34:59)

But I'll let the defense litigate the issue. So, again – and by the way, I'm not saying the state's wrong and their motion's not well-founded. It is well-founded.

(34:59 - 35:13)

I set the deadlines because I want you to comply with the deadline. I guess a lot of the stuff we're talking about here was filed less than – I'm getting the math right – about 49 days before the trial. But be that as it may.

(35:13 - 35:31)

So that one is going to be denied as well. Likewise, as to the rap lyrics and videos, we'll litigate that issue. Again, I can't do that one in a vacuum, but the state's going to have to tell me what rap lyrics and or videos they would intend to introduce at the trial.

(35:31 - 35:44)

They may change their mind and make strategic decisions, and then I'll have to give them rulings on the fly. But, again, not an unheard-of situation in a capital case. I think the trial judge usually has to make 1,000 calls during the trial.

(35:44 - 35:54)

If I can do some of them ahead of time, so be it. But I will let the defense litigate it for all those reasons. So that motion to strike likewise will be denied.

(35:54 - 36:06)

Now, this one's a little different, the last one. The state's motion to strike the defendant's supplemental witness list filed November 10, 2026. So I'm looking at the November 10, 2026 supplemental witness list.

(36:07 - 36:23)

It has four names on it that identify four people as expert. It says expert. I can't even determine what these people are experts in or what their field of expertise is.

(36:24 - 37:12)

I am looking at the defendant's discovery obligations pursuant to 3.220, subsection D, number 1, capital B, little 2i, that the defense long ago was under an obligation to turn over any reports or statements of experts that the defense intends to use as a witness at the trial made in connection with a particular case, including the results of physical or mental examinations and any scientific tests, experiments, or comparisons, or any tangible papers or objects that the defense intends to use during the trial, or that the, as we all know, the case law says that expert may have relied upon. So this puts it in a tight time frame. Defense, they're asking me if I let these witnesses go forward to continue the trial date.

(37:13 - 37:19)

That's not going to happen. If the roof comes off of this building, the trial date is not going to change. So that's not going to happen.

(37:19 - 37:29)

But I do think it's incumbent on the defense. Again, striking defense witnesses is a tricky business. That's supposed to be the most severe sanction.

(37:29 - 37:42)

But I do find a discovery violation. I do find a violation of my pretrial order. I guess the case law says I need to conduct a Richardson hearing, but I'm not going to strike them.

(37:42 - 38:01)

But we need to start with getting the information out on the table so I can address the state and

give them whatever kind of relief I can fashion here. So defense, starting with Dr. Eric Nielsen, N-I-E-L-S-O-N. What is he an expert in? So, Judge, if I may, first, I did send the CVs to the state, and I apologize.

(38:01 - 38:14)

They were not initially attached. I was out of town on a capital case, so I did send those last week. Dr. Nielsen and Dr. Atkins-Plunkett are both witnesses for the Lyrics Motion.

(38:15 - 39:13)

So as a side note, I would just say they are not present today because we did all of this scheduling. So we were going to ask for another date for the Lyrics Motion, so they are both for that. They are experts in the field of rap lyrics? Correct.

Dr. Nielsen is a professor, has written a book on rap on trial, has published articles with regards to both the meaning of rap as well as the impact of rap. Dr. Atkins-Plunkett is a professor at FAU. She conducted a survey in Florida with regards to the prejudicial nature of lyrics on potential jurors.

(39:14 - 39:48)

And that study was attached to the motion, so that's the only record. Who is Dr. James Downs, MD? So Dr. Downs is a forensic pathologist who would be a witness to rebut the state's forensic pathologists. And then who is Anna Cox? So Ms. Cox, and I did not send a CV for her because frankly that's still up in the air, but obviously I'm going to finalize that this week.

(39:48 - 40:46)

Ms. Cox is a bloodstain expert, a forensic bloodstain expert, and it would be rebutting Sergeant Williams' testimony with regards to bloodstain in the vehicle. And have any of these people generated a report or statement based on the evidence in this case? No. So Ms. Bucklew, understanding that, would it be the state's intention that you have to get different experts or are you going forward with the people that you have? And again, because I'm just trying to fashion a remedy, they violated the order, so I need to know going forward here what the state's position is so I can determine the proper relief.

(40:47 - 41:31)

I mean, Judge, it's kind of hard at this point in time now really finding out who they are, what they might testify, so yes, we received CVs on Friday afternoon, but again, some of our experts that are testifying that are already listed, yes, we would use them, but I also don't know the crux of their testimony because I haven't deposed them. Well, let's put the rap lyrics people aside for a moment. As far as a forensic pathologist, are you going to get someone different or are you going

to go with the witnesses that you have? Unlikely we would get someone new, but again, I would have to speak with our forensic pathologists because there were two in this case to determine if they are able to attend depositions, when we depose these witnesses, I don't know yet.

(41:31 - 42:09)

And how about the blood stain expert? I would have to speak, again, with Sergeant Williams to see if he's available for deposition, but at this point, yes, we wouldn't be getting another witness if it's just Sergeant Williams. You said you would or you would not? Would not at this point in time, but again, we're kind of being asked in a vacuum because we haven't deposed any of these witnesses, we don't know what they're going to say, we have no reports, we have nothing. So I didn't commit it to memory, I read the trial transcript from the previous trial bond hearing, but I can't rely on my memory of the entire trial transcript.

(42:10 - 42:25)

Besides law enforcement, did the state have any expert witness regarding gangs in the prior trial that was not a law enforcement officer? No, Your Honor. Okay. Did the state have any expert witness regarding rap lyrics? My memory is no.

(42:25 - 42:57)

Not in the first trial, no. No, okay. I would, as the Court may recall, they tendered Sergeant Williams as an expert and Detective Polo as an expert in gangs, and as I mentioned before, they have listed a gang expert, and since September 21st, I think, was my first email with regards to whether they intended to call that person, I have not gotten a response.

(42:57 - 43:09)

Is that person a law enforcement officer? No. I thought Your Honor was asking me in the first trial, that's why I answered it the way I did. So you have a non-law enforcement officer? Gangs expert, correct.

(43:10 - 43:23)

Okay. Okay. All right, so listen, as to the supplemental witnesses, I'm going to deny the state's motion to strike because, again, that's the last, most severe sanction.

(43:23 - 43:30)

I don't think I can do that. But we're operating under some pretty tight time frames. I am going to fashion some sort of order.

(43:31 - 43:51)

I want to hear what we're all going to do with the Rappalier litigation and the motion in limine this morning. So I'll get back to this one, but I can give you all a preview. There's going to be a deadline defense in which not only all the materials have to be turned over that these experts might be relying on, but these people have to make themselves available for deposition.

(43:52 - 44:01)

By my math, you listed them 57 days before the trial. 57 days before the trial. So the defense doesn't arrive at this issue with clean hands.

(44:02 - 44:16)

So I'm going to set a deadline, and I'm going to defer on the state's motion to strike. I'll do a Richardson hearing at the appropriate time. If these people don't make themselves available for the depositions, it's going to be a pretty tight time frame.

(44:16 - 44:36)

I probably will strike them. And if an appellate court wants to tell me that I should let parties list experts 57 days before trial and then have them tell me that they're too busy or too important to appear for depositions in a timely fashion, then I guess I'll let an appellate court tell me. And I would apply the same thing to the state.

(44:36 - 44:49)

The state was listing a new expert 57 days before trial. I would insist on their immediate compliance, make that person immediately available. Again, I'm familiar with this type of litigation.

(44:49 - 45:00)

These people are paid exceedingly well. So they need to make themselves available when you all can make them available. And it's probably going to be, just so you know, it's going to be tight.

(45:00 - 45:12)

I'm going to cut the time in half, but the state is entitled to hear what these people have to say to make a decision how they want to proceed as well. So let me defer on that one. I would just add, I'm sorry, Judge.

(45:13 - 45:26)

I would just add, I kind of expected in the last 10 days to get an email providing dates for availability for deposition. I've heard nothing. So, yes, the time frame is getting even shorter.

(45:26 - 45:47)

Understood. And, Judge, I'd like to make a record of the fact that I've been in front of this court numerous times where both the state and defense have filed things of this nature in violation of the court's order, and they have been struck. Had the state done this, we would be hearing all sorts of things about how we shouldn't have done this, they're stricken, and we wouldn't be even litigating all of this.

(45:48 - 45:57)

You're right. I have done that before. I struck a defense witness in the murder case that the jury is deliberating right now because they were not listed on a timely basis.

(45:59 - 46:09)

I guess an appellate court is going to tell me if I do something wrong. They haven't yet, but I'm sure that day will come. Ms. Buckley, your point's well taken, but I have to take each of these on an individual basis.

(46:10 - 46:23)

There's still time for you all to be prepared. Today is November 23rd. This case is commencing trial November 6th, but the reality is it's probably going to take two weeks to pick a jury.

(46:23 - 46:42)

So we're talking about November 20th before anyone's given an opening statement, and everyone's just going to have to do the work that they need to do to get ready. Again, not an unusual circumstance, but no matter the age of the case, everyone kind of starts scrambling right at the end to get things done. I wish it wasn't that way, but that's the way it is.

(46:42 - 46:59)

But I'm going to defer on that one right now, and we'll see what we say about the others who wrap their experts. But the pathologist and the bloodstain person, I'm going to be able to give you some deadlines and some relief as to that. So those are the motions to strike.

(46:59 - 47:11)

So understanding that, then, I want to go forward with as many of these as each party would like me to do. I guess the only fair way to do this would be to do it in chronological order. The earliest one is the state's motion.

(47:12 - 47:36)

In limine to exclude the testimony of Michelle Boutros and Christine Bradley, it's electronically filed December 17th, 2023. I did read the motion. State, before I ask your position on defense, is

it your intention to call Michelle Boutros or Christine Bradley as a defense witness in the case? Judge, Mr. Finley is going to address it, but I just want to – I'm sorry, I'm going to be picky.

(47:37 - 47:47)

The first motion filed was the motion to suppress, so I don't – and that was filed back in October. This is December 23rd. Oh, yes, you're right.

(47:47 - 47:53)

I'm sorry, it was just noticed on Friday. Yeah, December 17th of 2023. I think it predates your involvement.

(47:54 - 48:01)

Yes. Judge, I was just going to ask before we start that one, we did not do the state's motion to exclude the defendant's alibi witness. I know it's not labeled a motion to strike, but I didn't know.

(48:02 - 48:11)

Is that – oh, you didn't file a motion. No, it was filed. Did you file a motion to strike that one? No, it's just – it's labeled state's motion to exclude the defendant's alibi witnesses.

(48:11 - 48:29)

What day is that electronically? That was filed along with the motion to suppress – the state's response to the motion to suppress back on the 16th. I don't have that on CMS yet. The only thing that's on there is the motion to allow witnesses to testify by Zoom.

(48:29 - 48:35)

It's the only question that's electronically filed on November 16th. But, yes, I will hear that and give me a copy. Sure, Judge.

(48:36 - 48:49)

And I can make a copy and give it right back. I did include a thought with the e-mail I sent with everything to your JA, but I will put that on your e-mail. It could have been, but this is regarding the alibi witnesses that were listed on an earlier date.

(48:49 - 49:00)

They were not listed on November the 10th directly. They were listed on – They were listed on – yes, it was October 19th. October 19th.

(49:01 - 49:06)

All right, I got it. I'll hear that one. Mr. Finley, as to the – well, state, you've got to answer my question.

(49:08 - 49:31)

Defense, excuse me before I turn to the state. Do you all, defense, want to call Michelle Boutros and or Christine Bradley as witnesses? If I can address that issue, Your Honor, that motion was filed by the state in – obviously well before we were involved in the case in December of 2023. And I'm sure that the court will recall that's when that subject was extremely hot and a big issue here.

(49:31 - 49:59)

We don't disagree with the state's presentation of the case law on it, with the exception being if we can show that the witness is biased or is involved in corruption or lack of competency. This is one where we do think that this may be premature. We know the position that the previous defense team took regarding Detective Moretti.

(50:00 - 50:16)

Obviously, we'll be challenging him on a number of issues as reflected in the Franks issue before the court. And so what we would propose to the court, we're really not making that decision at this point. We don't know where we're going to go with Moretti.

(50:16 - 50:26)

We just will not mention it in an opening statement. If it becomes an issue, we'll let the state know. All right, so you may decide you want to call either one of them.

(50:26 - 50:38)

We may decide we want to do that depending on where we go with Moretti. It's nothing that we haven't noticed them as witnesses right now, but it's on the record. We just think it's premature.

(50:38 - 50:46)

If not, I mean, I'm happy to argue it. I just wanted to put that before before the court. Obviously, he's a hot button subject in the case.

(50:47 - 51:07)

As you know, be the center of the motion of suppression here. It's rare that we file, at least I file, a Franks issue. And if there's a Franks issue, it definitely goes to the veracity and reliability of an investigator, which, of course, he's been the subject of motions to suppress being granted, which bring him into question.

(51:07 - 51:17)

This takes it to another level. Obviously, if we're going to pursue the issue of lying, that is definitively corruption. But we're not ready to do that right now.

(51:17 - 51:28)

And so we're happy to hear it, but we just wanted to offer up to the state and to your honor, we won't mention an opening statement. It won't be part of our case. And if it is, we'll bring it to everybody's attention.

(51:28 - 51:41)

And we never say anything, make any reference to them or to the issue before it became viable in the case. Okay. Well, let's just, let me just presume for the sake of our hearing today that you're going to call both of them.

(51:41 - 51:44)

Sure. So, Mr. Griffiths, whenever you're ready. I read the motion.

(51:45 - 51:57)

I read the authority. Judge, my motion pretty much outlines that what they're attempting to do is call him on a collateral matter. This is now the first time I'm hearing that they intend to impeach him, I guess, based upon the fact that the motion to suppress was granted.

(51:57 - 52:15)

But that was only granted in part due to it being overbroad, not due to any lying or fabrication by him. And now I'm also hearing about bias or corruption, and that generally you have to show a systemic pattern of that, not just an individual incident. And that just simply does not exist.

(52:15 - 52:40)

What they intend to do is try to show that he is biased or corrupt based upon the issue that happened with the defendant's mother, which was the collateral matter. So your position is, even if the detective wasn't honest, the issue that he wasn't honest about is a collateral issue? In terms, yes. In terms of the investigation involving the defendant's mother, right.

(52:40 - 52:50)

The case law is directly on point to that issue. So let me ask you this. Am I correct? Because I see Ms. Boutros and Ms. Bradley in different positions.

(52:51 - 53:26)

If you take the position that he didn't tell the truth, the person he didn't tell the truth to is Ms. Boutros, right? The person that he allegedly didn't tell the truth to, no, was – the allegation is that he asked another deputy during the serving of the warrant to – I know, but what is Michelle Boutros' personal knowledge of that? She was present. She's going to testify that Detective Moretti asked the other deputy who was in the room when serving the warrant, or rather came after, asking him to lie in one of his reports. Ms. Bradley's involvement is after the fact.

(53:26 - 53:32)

Oh, I'm sorry. Ms. Bradley is after the fact. Allegedly becomes aware of something, whether it was disclosed or not.

(53:33 - 53:50)

Correct. I'm sorry. I misheard.

Yes, Bradley was separate. Okay, so – all right, so – If I can continue? Yeah, yeah. Okay, so let me say – I agree with you, Honor, that there's two – and we're really mostly, to me, talking about Assistant State Attorney Boutros.

(53:50 - 54:18)

So if I remember correctly – again, this is preceding us getting on the team – this – the defense team – this information was served to the defense in the form of Brady. So that just kind of lets me know that at least from the state's obligation to turn over favorable evidence to the defense, this issue was important enough from their perception, from their lens, that it fit into the Brady category. So I think that should say something to the court as well.

(54:19 - 55:04)

And I add – the icing on the cake, however, is the issue of – the Franks issue of the potential untruthfulness of the – you know, in terms of the search warrants. But again, because we've all read the previous transcripts, one of the biggest subjects in the case that one of the previous defense attorneys was kind of hammering away on Moretti and became, I think, a critical part of his argument, was the failure to seek a search warrant of what was the West Miramar House, which is where Christopher Thomas, Anthony Williams, Portland Henry, and Mr. Demmons all lived. And I will empathize with previous counsel that there was no rational explanation other than dropping the ball that Moretti gave.

(55:04 - 55:29)

And then when he finally thought to do it, there was no longer living in the residence. And so

there's a – that's a real problem for the state. And so there's a pattern there, and that pattern – the culmination of that pattern is this incident that an assistant state attorney, a member of the bar, thought was important enough to raise that this detective assigned to this case – her quote was, I will never work with him again.

(55:29 - 55:38)

He tried to get another law enforcement officer to lie. That, to me, definitively, is corruption. But we haven't made a decision to do that.

(55:38 - 55:43)

I would love to say, yeah, we're going for it. I'm trying to be candid with everybody. We haven't made that decision yet.

(55:43 - 55:57)

But if we want to hear it out, that is the exception. It's, I think, part two in the case law cited by the state. So it does – it is an exception to collateral impeachment if we chose to go in that direction.

(55:57 - 56:09)

But again, we would let everybody know if that's an avenue we wanted to pursue. Okay. Okay, so listen, as to this one, understanding – and I appreciate the defense telling me and their position to make change on it.

(56:09 - 56:17)

But I'll give you a rule right now. It's without prejudice. If the facts on the ground change, I'll revisit it from either side to make whatever appropriate objection or argument they want.

(56:17 - 56:25)

But I view it as follows. I'm going to grant the state's motion as it relates to Christine Bradley. Her involvement is too removed.

(56:26 - 56:50)

She's the one that filed the Brady Notice, but she's not a witness to any of these things. If the state's motion is going to be denied, as to Michelle Boutros, the credibility of the witness is always at issue. And if I have a detective in a homicide case who is soliciting other law enforcement officers to lie about things, and this is witnessed by an assistant state attorney, again, what the gentleman has to say is not hearsay.

(56:50 - 57:00)

It won't be offered for the truth. Everyone understands it's not the truth. But that – I don't find it to be so far removed.

(57:01 - 57:10)

The jury is going to have to make a decision as to the credibility not only of Detective Moretti, but it's all the witnesses that are presented to them. It's all the jurors do. And it's certainly something that they need to know about.

(57:10 - 57:26)

And I don't find it to be a collateral matter because the subject matter, which happened to be the phone or the mother's phone or whatever it is, that's not relevant. The relevant part is this was part of the homicide investigation where he's asking another law enforcement officer to not tell the truth. That's fair game.

(57:27 - 57:34)

So the state's motion is granted as to Christine Bradley. The state's motion is denied as to Michelle Boutros. That's without prejudice.

(57:35 - 57:46)

The facts have not been changed, and I'll enter the appropriate court. Judge, that raises then two additional issues. The first is that Judge Murphy previously entered an order precluding the state from cross-examining Michelle Boutros.

(57:46 - 58:16)

Should she be called to take the stand? We've asked the court to revisit that because obviously since now you're putting on the record that credibility is always an issue, her credibility remains an issue. The state did offer evidence of impeachment at the previous motions, which Judge Murphy heard, and then subsequent to that entered an order precluding us from cross-examining her during trial. Your position on that request? I just don't want to freestyle in front of Your Honor.

(58:16 - 58:24)

We didn't know that issue was coming. I'd like to kind of confer with counsel and research that issue. Again, at this point, the ruling is without prejudice, but I'll grant the state's motion.

(58:24 - 58:57)

I'm not one to set aside other circuit judges' orders, and I certainly acknowledge Judge Murphy is far better at this job than I'm ever going to be, but if the witness is going to testify, I'm of the preference that both sides get to ask them whatever questions they want. The jury decides who's

telling the truth and who's not telling the truth. And then the other issue, obviously, I know counsel's not prepared for today as well, is that we will probably be seeking relief from the court's order because there is additional evidence of potential impeachment that we may seek to introduce that came out subsequent to the previous hearings, so we will be asking the court for relief to list those.

(58:58 - 59:07)

Impeachment of Michelle Boutros? Yes. Okay. If she's going to be taking the stand, that is a potential issue.

(59:08 - 59:13)

Okay. I can't wait to receive that. In fact, I don't think I'm going to sleep tonight because I can't wait.

(59:13 - 59:17)

Can we just get that right now? That's unusual. Okay, so that's the rule. I understood, Mr. Griffiths.

(59:18 - 59:45)

I guess, well, you don't need relief from the enforcement of this. It's not going to happen until we have a jury selected and sworn and witnesses are testifying, but you all can litigate any of these rulings that you see fit. Okay, next one, chronologically, is the motion to suppress evidence obtained from Instagram, Snapchat, Google, and the iPhone pursuant to the March 21, 2024 warrants.

(59:45 - 1:00:12)

Just so we're all clear on this, besides reviewing that and viewing the state's written response and reviewing all the authority, I, again, reviewed Judge Murphy's order that was entered December 20, 2023. I, likewise, reviewed the 4th DCA's order that both sides appealed, and the 4th DCA issued an opinion October 15, 2025. I read that one as well.

(1:00:13 - 1:01:13)

The new warrants, for the sake of our argument today, I'm calling them the new warrants, relate to four items that were addressed in Judge Murphy's order before. The Snapchat account that's called Melly.Montana, the Instagram account that's called YNW.Melly, the amended iPhone X search, that's the iPhone X for 7727139807, and the Google email for YNW.Melly100KMJMT at gmail.com and YNW.Mellybooking at gmail.com. What we'll call, if there was 13 prior searches that were addressed in Judge Murphy's order, this is search number 4, search number 7, 11, and

what I've combined is 12 and 13. The other items are not subject to the new warrant.

(1:01:13 - 1:01:42)

There was no new warrant, and there is no new motion to suppress. So all the previous rulings that Judge Murphy made, December 20, 2023, and what the 4th DCA affirmed, October 15, 2025, they remain as he previously ordered and as I have previously recited on the record. So when we're addressing these new warrants here, what the defense is looking to suppress, it is only from those, what I would call, four categories of searches.

(1:01:43 - 1:01:59)

So that being said, any evidence, witnesses, or testimony that you want to present in support of your motion? Defense, when you're ready, you may proceed. Yes, I did. I subpoenaed Detective Moretti.

I don't know if he is here. Derek, you can check the whole thing. I'll see if he's here.

(1:02:02 - 1:02:20)

Judge, I thought Mr. Collins had sent an email to everyone, indicating that he was unavailable for this week because he's on vacation. He received the subpoena for this past Friday, but I'm not aware if he received it. Do you have a copy of the subpoena? I don't have it with me, but he was served.

(1:02:20 - 1:02:31)

I received an email Friday from the state saying he was on vacation this week. I hadn't excused him from his subpoena. So, you know, he didn't contact me.

(1:02:31 - 1:02:49)

Can I see? Did someone give me a copy of the subpoena that was served on him? Judge, I didn't bring it, I would think. There's so much else. As an officer of the court can tell you, he was served at his home by his wife, who was present.

(1:02:51 - 1:03:09)

I believe it was Wednesday that he was served. Judge, if I may, so the email that Ms. Collins sent on Friday to counsel stated that Detective Ferretti is out of town next week, will be back the first week of December. He also said he will accept service via subpoena and gave his email address.

(1:03:11 - 1:03:26)

Counsel then responded saying, we can do the majority of the motion to suppress on Monday

since his testimony would only go to the Franks issue. The rest of the motion would be decided on the four corners of the affidavit. So based on that response, I took it as their understanding he's on vacation this week.

(1:03:27 - 1:03:47)

She wants to call him as a witness, so when is he going to be available? He said the first week of December. What does that mean? Is that the week of November 30th or is that the week of December 7th? I don't know. I can see if Ms. Collins can reach out to him, or I can reach out to him.

(1:03:50 - 1:04:09)

Well, Ms. Collins, let me do it this way, if I can. Is there some factual dispute that we need him for? Yes. I would want his testimony with regards to the affidavits that are misleading, intentionally omit information.

(1:04:10 - 1:04:24)

I think all of that requires testimony. The state presents in their response all kinds of factual information, so I don't know if they were intending on actually presenting evidence. It would not be appropriate with regards to the affidavits.

(1:04:24 - 1:04:52)

But I think Detective Moretti's testimony is necessary for the part of the motion that does raise essentially a Franks issue, that the detective intentionally misled the magistrate who signed the warrants, as well as— Their response says that he omitted any mention of the prior warrant in the issue on appeals. They acknowledge that. He omitted a lot of things.

(1:04:52 - 1:04:56)

Right. So I think— You're not spewing, right? No. Not my part.

(1:04:57 - 1:05:05)

I don't know what else they're claiming you omitted, but not that part. Yeah, we agree. He omitted a fair amount of exculpatory evidence that he was aware of, and I think that's— Okay.

(1:05:05 - 1:05:24)

Well, I guess I need a witness for that. But I think, Judge, we can address some of the other legal issues with regards to the affidavits themselves, because the court would be restricted to the four corners of the affidavits. The state's response includes about 50 pages of facts.

(1:05:24 - 1:05:40)

I'm not sure why. But with regards to overbreadth of the warrants, this court's analysis— I'll do it however you want. I'm going to let you present whatever evidence you want, and then present your argument.

(1:05:40 - 1:05:53)

If you want to do it and give me an argument today based on what's in front of me, that's fine. If you want to have the witness' testimony, that's fine. Again, I'll repeat, I'm starting another murder trial on December the 7th.

(1:05:53 - 1:06:06)

I can otherwise make myself available. I'm also working the week—I'm also working Christmas week, Monday, December 21st, Tuesday, December the 22nd, Wednesday, December the 23rd. This building will be open, and I will be here.

(1:06:06 - 1:06:23)

But if we don't have time to litigate these matters, then I'll just do it contemporaneously during the trial, which is an awful way to do things, but that's what I have to do. And I guess that's what I'm going to do. So how do you want me to proceed? Well, I would—as I say, Judge, first of all, I did subpoena Detective Moretti.

(1:06:23 - 1:06:27)

I appreciate it. He called this date and said, I'm on vacation. So I don't know what to do.

(1:06:27 - 1:06:38)

If someone wanted to give me a subpoena, a return of service, and a motion for a rule to show cause, I'll enter an order to show cause. All right? I don't play favorites. That's for civilian law enforcement officers.

(1:06:38 - 1:06:52)

But step one is I need to see the subpoena, what it says. I need to see that it was served. And then you can file whatever appropriate motion you want under 3.830, 3.840, and then— I'm having it emailed from my office.

(1:06:52 - 1:07:08)

Very good. So how would you like to proceed regarding this motion to suppress? I would like to proceed with the argument that the affidavit does not support probable cause and is overbroad.

All right.

(1:07:08 - 1:07:15)

So no warrant, evidence, or testimony except for the affidavit itself is just your argument. Is that correct? Right. Pause on that.

(1:07:16 - 1:07:29)

State, is there any evidence, witnesses, or testimony you would like to present as to that issue regarding maybe just reviewing the four corners of each affidavit or if it's just your argument? As to the four corners, it's just the argument. Okay. Go ahead, next.

(1:07:29 - 1:07:49)

So, Judge, the only thing I would say is the state raised an issue about standing. I don't know if they are continuing to raise that issue. Well, I think the standing as to the 7727139807, I think their issue regarding standing is correct.

(1:07:49 - 1:07:53)

If it's on his phone, he doesn't have standing. So, Judge, if I might. Sure.

(1:07:53 - 1:07:59)

This issue was litigated in front of Judge Murphy. He found that there was standing. It was litigated in front of the appellate court.

(1:07:59 - 1:08:15)

The state argued that Mr. Dems did not have standings for this, both the phone as well as the other accounts. The appellate court affirmed Judge Murphy's order. I would submit that that is law of the case.

(1:08:15 - 1:08:37)

And I would cite the Supreme Court of Florida, Florida DOT versus Giuliano with regards to law of the case doctrine. A trial court is bound to follow prior rulings of the appellate court as long as the facts on which such decision are based continue to be the facts of the case. The facts are the same.

(1:08:37 - 1:08:52)

It's the same accounts. It's the same phone. I have the state's brief where they raised standing as to all four of these, both the social media accounts as well as the phone.

(1:08:52 - 1:09:13)

It was raised in oral argument. I was there. And the appellate court affirmed Judge Murphy's finding that the state's argument about defendant's lack of standing, he found would only apply to the cellular phone, is not well taken.

(1:09:14 - 1:09:39)

Defendant has established a possessory interest in the cellular phone at issue in his motion to suppress. And there was no evidence presented that defendant disclaimed his possessory interest in the cellular phone or otherwise abandoned it. So that same argument then was made by the attorney general in front of the fourth ECA with regards to Mr. Demons standing on the phone as well.

(1:09:39 - 1:10:00)

And as I say, I have the initial brief if the court would like to review it with regards to standing on the social media accounts. And the appellate court rejected those arguments by affirming Judge Murphy. So I don't know how it can get any more law at the case than an issue that has been appealed and ruled on.

(1:10:00 - 1:10:02)

Okay. Go ahead. Give me your argument.

(1:10:05 - 1:10:19)

The motion to suppress itself. Thank you. So, Your Honor, I gave you a lot because the affidavits themselves are anywhere from 70 to 85 pages.

(1:10:19 - 1:11:29)

And so whether it was just an effort to kind of overwhelm the magistrate judge, we still have to look at each individual warrant and whether there are facts that support the request. So if we look at starting with the Snapchat warrant, and that I believe is Exhibit 6. And, Judge, I would ask the court to, I don't know if it's judicial notice. It is part of the record as it is.

(1:11:29 - 1:11:35)

We're all filed as part of my motion. You want to move in? Yes. Part of it? Yes.

(1:11:35 - 1:11:51)

When we're done with all this? Yes. You want to use the copy that you gave me? Yes. So you want to call your motion to suppress obtained from Instagram, Snapchat, Google, and iPhone

pursuant to warrants issued March 21st, 2024, and accompany attachments.

(1:11:52 - 1:11:55)

We'll call that Defense Composite Exhibit A identification. Thank you. Yes.

(1:11:56 - 1:12:04)

Okay. When we conclude with all this, they want to move that in as Defense Exhibit 1, Composite Exhibit State. Do you have any objection to that? No, Your Honor.

(1:12:04 - 1:12:09)

Okay. So that's what it'll be. I'll take my tabs off of it, and I'll give it to my clerk.

(1:12:09 - 1:12:15)

Go ahead. So I was wrong. It was Instagram is the first one.

(1:12:15 - 1:12:49)

Okay. And so that is Exhibit 6. The first, the request, and, you know, ultimately the warrant that is issued is extremely broad. So if you recall, Judge Murphy's order restricted Instagram to October 1st, 2018.

(1:12:49 - 1:13:05)

Or no, that was the original warrant, too, October 26, 2018. Go ahead. So the Instagram for YNW Mellon, October 26, 2018 to January 15, 2019 is in.

(1:13:05 - 1:13:13)

Everything before October 26, 2018, everything after January 15, 2019 is out. Correct. That's where we're at right now.

(1:13:13 - 1:13:32)

Yes. Okay. And so the new warrant that was obtained while the case was on appeal, we will discuss as a separate argument, was from July 1st, 2018 to February 13th, 2018.

(1:13:39 - 1:14:34)

The warrant, the affidavit request and the warrant provides for basically all the data in the Instagram account, with only a few things even being limited to the July 1, 2018 through February 13, 2018. So I would submit first, just generally, it's the same problem as they had before. There is, just because there's greater detail about the investigation, there is still really no facts to

support probable cause, as Judge Murphy found, that the data ceased before October 26, 2018 exists.

(1:14:35 - 1:15:03)

So, and, you know, there's the, this is where we get into, of course, the probable cause about the gangs, but there's no nexus between gangs and the homicide. The affidavit request is just so very broad. I don't want to read, I think the court has, all Instagram accounts associated with the target account.

(1:15:04 - 1:15:56)

All accounts, all former usernames, all date name changes, accounts follower list, all, no time limit, target accounts following list, target accounts close friends list, target accounts favorites list, and it goes on. There are only a few that even limited to the time period of July 1, 2018 to February 13, 2018. So, all passwords, all deleted posts, so it, you know, it's basically all the data in the Instagram account.

(1:15:56 - 1:16:30)

And yet, the probable cause for that is very limited. The probable cause just recounts at great length the investigation around October 26 homicides. There is reference to, actually, that might be Snapchat, there's reference to a witness saying that Mr. Demons uses Instagram.

(1:16:34 - 1:16:57)

But other than that, there's really nothing, and of course, the facts to support this warrant are virtually the same as the facts to support the other warrants. So, there's a lot of overlap. So, in this affidavit, they talk about basically the Snapchat account, which doesn't have anything to do with the Instagram account.

(1:16:58 - 1:17:29)

So, I frankly scoured the Instagram account, the affidavit, and could not find really any reference to the relevance of Instagram. There's reference, again, to Snapchat. I'm getting a little confused, Judge, I'm sorry.

(1:17:44 - 1:18:28)

So, the detail of the affidavit, just as Judge Murphy found, I mean, it is so similar, may provide probable cause with regards to Mr. Demons' involvement in the homicide. The legal question, of course, is whether the affidavit provides probable cause that the evidence sought will provide evidence of the crime. Again, I also point out, the affidavits are specific to homicide investigations, not gang investigations, not witness tampering investigations, murder

investigations.

(1:18:28 - 1:19:20)

That's what is alleged to be violated. And so, the affidavit details for 56 pages, every step of the investigation, and let's see, there's one mention, I believe on page 45 of this affidavit, that references Instagram. And that is, first, making reference to the records that were obtained that have been suppressed.

(1:19:22 - 1:19:48)

As Detective Moretti references his review of the records, and I would specifically cite to, on February 18th, 8th, 2019, Maddox Inc. responded with Instagram records pursuant to the search warrant. Mind you, this is the search warrant that Judge Murphy found was overbroad and that Detective Moretti could not rely on in good faith.

(1:19:50 - 1:20:06)

These records show private and intimate messaging between Demons and various other individuals. One of those individuals was Patrick Deloach, aka Keezy Gambino. The private messages indicated that Deloach was Demons' gun dealer.

(1:20:06 - 1:20:29)

Their relationship went further than just gun sales, as Demons wanted Deloach to shoot Jay Green in Miami on November 26th, 2018. The shooting never occurred. Most importantly, on October 26th, Deloach reached out to Demons to see how he was doing after his friends were shot, and Demons replied, quote, I did that.

(1:20:30 - 1:20:40)

End quote. That's the reference to Instagram. That's the one reference that is covered by Judge Murphy's order.

(1:20:41 - 1:21:34)

There is nothing that extends in the affidavit the investigation, you know, any probable cause for evidence as of July 1st. So, I would submit that it is, there is no, there's no probable cause, and the request is so overbroad. I frankly would have thought that Detective Moretti would have learned from the prior order of Judge Murphy, but apparently not, because it again asks for every piece of private data on this Instagram account without it being connected to the homicide investigation.

(1:21:35 - 1:22:39)

I, you know, some specific things that really caught my eye was things about account, archive stories about his music career, the YNW clothing line deal. This is just a, let's see what we might be able to find, or we could think nefariously, let's see what we have seen in the suppressed records that we now want to get. Let's assume not the nefarious interpretation, but there simply is nothing to support this broader time period that was attempted before Judge Murphy ruled October 26th to what was a January something, and there's no additional facts to make it any broader than that.

(1:22:46 - 1:23:32)

So that's as to Instagram. I don't know if you want me to address all of them. Alright, next would be the Snapchat warrant, and that is Exhibit 7. So the original warrant that Detective Moretti obtained and that Judge Murphy found was overbroad and not relied on with faith was October 1st to November 25th.

(1:23:32 - 1:23:55)

Judge Murphy found only October 26, 2018 was supported by probable cause. 3 a.m. to 9 a.m. Yes, very specific. So when we look at the Snapchat warrant, we have the same issue with regards to simply everything in the Snapchat account.

(1:23:58 - 1:24:45)

The property to be provided, any device, electronic phone book, any financial information, all content, all logs, all location data, etc., etc. There's in the search, there's some limitations, some. For example, there's a, in Snapchat messages and or snaps to include read and non-read photos, stories, memories, and or camera roll content and discover content between the date of the target account creation and February 28, 2019.

(1:24:46 - 1:25:02)

So as I think we all know, Mr. Demons was in custody in February. So this is not a limitation on the data. It's from the date the account was created until Mr. Demons was incarcerated.

(1:25:02 - 1:25:19)

It is all the data on Snapchat. So I would submit it is clearly overbroad. All usage information between the date of the target account creation and February 28.

(1:25:21 - 1:25:45)

And it goes on and on. So what are the facts to support the Snapchat? Again, it essentially repeats the same probable cause as the Instagram warrant. It goes on pages and pages about the facts of the investigation.

(1:25:46 - 1:26:28)

There is reference on page 37 of the affidavit about a statement from Mariah Hamilton who says she was doing some messaging on Snapchat on the day of the incident. Which may be why Judge Murphy found probable cause for the day of the incident. That's it.

(1:26:29 - 1:26:49)

The affidavit continues to incorporate language from the Instagram warrant with things like Your client knows that Instagram is a social networking site. Obviously that has no bearing on the Snapchat affidavit. So it's, I don't know, copy and paste or AI.

(1:26:50 - 1:27:12)

There is also information provided regarding an Instagram message on October 26, 2018. The same date and time that Judge Murphy allowed. It makes reference to Facebook searches that don't really have anything to do with Snapchat.

(1:27:20 - 1:27:53)

So, I would submit there is nothing that provides probable cause for an even more extensive search than what was done initially from the date of creation. So again, probable cause and overbreadth are the two issues. There is not probable cause and it's clearly overbreadth what the request is.

(1:27:54 - 1:28:32)

And despite having Judge Murphy's law and direction, the same effort was made to obtain data to which the law enforcement wasn't entitled. On the Apple iPhone. No, I'm sorry.

(1:28:33 - 1:28:49)

The next one would be the Gmail account, which is exhibit eight. Judge Murphy did not allow anything from the Gmail account. Finding no probable cause.

(1:28:50 - 1:29:09)

So first with regards to the breadth of the request for the search. It is basically everything. I want to interrupt you.

(1:29:12 - 1:29:30)

Combining those two emails together, YMWMellyBooking at Gmail.com and YMWMelly100kmjmt at Gmail.com. I thought October 26, 2018 through November 1, 2018 was in. That may be right, Judge. I'm sorry.

(1:29:30 - 1:29:41)

Everything before October 26, 2018. Everything after November 1, 2018 out. But Judge Murphy did allow that narrow time frame between those two dates.

(1:29:41 - 1:29:50)

I don't know where I got that. But be that as it may. Here what we're asking for.

(1:29:51 - 1:30:11)

The already is requesting all contact and actress book lists associated with the Google user account concerning the same subscriber. As well as a whole lot of other people. And or other conspirators involved in this case.

(1:30:11 - 1:30:26)

That language is inserted in this affidavit without any mention of who the other conspirators are. Or what probable cause it is to believe that there are other conspirators involved. All calendars.

(1:30:27 - 1:30:34)

No dates. YouTube account information. Comments made on YouTube videos.

(1:30:35 - 1:30:57)

Usage data. Voice and audio information between August 2018 through February 28, 2019. So that had one time limit in the Gmail accounts.

(1:30:57 - 1:31:12)

As did web and app activity between August 2018 and February 28, 2019. However, there is nothing in the affidavit. To support those requests.

(1:31:14 - 1:31:31)

So again, it is as broad as it can get. There's an effort to name a lot of people. But it's all sort of with this language.

(1:31:31 - 1:31:58)

All electronic communications should include drafted, received, opened, unopened, read, unread, forwarded, directly, indirectly, between or regarding. Essentially every person named. As well as things like the defendant's music career.

(1:31:59 - 1:32:09)

The YMW, the collective. The YMW clothing line deal. Again, nothing in the affidavit to support those requests.

(1:32:10 - 1:32:25)

All the email messages. And none of this is limited by date. The only limit by date is rental cars for October 26, 2018.

(1:32:25 - 1:32:43)

Otherwise, all the information is, all the other communications are not limited by date. So. I'm looking for.

(1:32:47 - 1:33:20)

The sole thing that I could find in the affidavit that requests these searches, even the ones that are limited to August. Is a recitation that is in all, I think all of them. About some communications between Anthony Williams and Mr. Dennis in August.

(1:33:21 - 1:33:47)

Two months prior to the homicide. That would not be sufficient probable cause to search this entire, all these records that they requested. So the conversation is referenced on page 70.

(1:33:48 - 1:33:59)

And it's referenced in most of them. That's 76. And it's an August 18th conversation between Anthony Williams and Jamel.

(1:34:03 - 1:34:15)

It's very hard to read on the copy that was provided in the affidavit. Like to think of the joy. That they provided to receive it.

(1:34:15 - 1:34:23)

Anthony Williams being upset. There is nothing about Mr. Dennis and that's the request. The account is from Mr. Dennis.

(1:34:23 - 1:34:40)

There's nothing that says Mr. Dennis was mad at Mr. Williams or that he was angry with what Mr. Williams said. Anything else? And again, judge over two months prior to. So.

(1:34:48 - 1:35:15)

There are references to the fact that Mr. Dennis uses Gmail. That doesn't provide probable cause to search. And again, sort of references to gang activity without any facts that support connecting the gang activity to the homicides.

(1:35:16 - 1:35:25)

This is not a racketeering case. This court has probably heard those cases. Where sort of the essence of the enterprise is the gang.

(1:35:25 - 1:35:46)

That's not the case here. And specifically with regards to these warrants, they are only being requested for homicide investigations. So I would submit the Gmail account is likewise overbroad and not supported by probable cause.

(1:35:48 - 1:36:13)

And finally. The. And again, judge, I would rely on what's been provided in our now will be exhibits and evidence, because I don't want to go through these lengthy lists of all the data that were obtained.

(1:36:14 - 1:36:21)

I am just giving the court some examples. So in this. Warrant.

(1:36:22 - 1:37:01)

Again, we essentially ask for all call logs. Any Internet searches about, I guess, homicide. At any time, all user device and subscriber data, all passwords, all stored location data, including but not limited to GPS data, cell tower data, Bluetooth and Wi-Fi data and other location based services that illustrate the suspect's geographical location between October one and February 13.

(1:37:01 - 1:37:42)

But there is nothing in the affidavit to support probable cause that Mr. Demons location on October one, two, three, four, five. Is it it's relevant or is it, you know, is connected somehow to the homicide? I think it illustrates Detective Moretti's just effort to obtain all information you could, irrespective of whether he had probable cause and clearly in violation of Mr. Demons right of privacy. The.

(1:37:44 - 1:37:51)

Phone. Again, has. So it's sort of interesting.

(1:37:53 - 1:38:10)

A specific request for Bluetooth connectivity logs. With any vehicle between October twenty five through October twenty six. So Detective Moretti knows that there's some limitations that are supposed to be provided.

(1:38:10 - 1:38:26)

But in his effort to really just. Well, you already had. But again, to go through Mr. Demons private information, he does not have any time limits on photographs.

(1:38:30 - 1:38:48)

Data third party of the third party mapping is October twenty five to October twenty six. The vast majority has no time. So it's essentially all of Mr. Demons.

(1:38:51 - 1:39:03)

Private information. So the probable cause affidavit. Simply makes reference to the fact.

(1:39:04 - 1:39:19)

That Mr. Demons would say he had a phone. It doesn't connect something specific to the phone, to the dates that are requested. It is while we.

(1:39:21 - 1:39:39)

It was a great effort to not refer to the illegally obtained evidence. It is hard to imagine that Detective Moretti didn't go and obtain these warrants to cover the things that he had illegally searched already. But.

(1:39:45 - 1:40:04)

Really, more significantly is the fact there's simply no probable cause to support the breath. Of the warrant. Other than what Judge Murphy already allowed, which is October twenty six to February.

(1:40:06 - 1:40:16)

So. Again, I don't I just didn't want to. Go through too much.

(1:40:16 - 1:40:28)

There's some. Conclusory statements. In the affidavits regarding tension due to Mellie's rise, and yet there's no fact to support that.

(1:40:29 - 1:40:43)

None. There is a conclusory statement about argument with sack of a mom, but there are no facts to support that. And there is a. Conclusory statement there.

(1:40:43 - 1:41:00)

There was a conflict between sex of different sex of the blood gangs, but there are no facts to support that. And I would submit to the court. We submitted many case sites, but.

(1:41:01 - 1:41:08)

I think the court knows. And I can reference specific cases. The case law is clear.

(1:41:09 - 1:41:25)

The conclusory statements are aren't sufficient because it doesn't give the court who's reviewing the affidavit any information to determine independently. Whether there's probable cause. And in this case, clearly, there was.

(1:41:27 - 1:41:47)

No facts provided to the judge to to support this. The probable cause of the gmail primarily references his use of gmail. But does not reference a single fact that the gmail was used.

(1:41:48 - 1:42:06)

In reference to the homicides to further the homicides to do anything to connect them to the homicides. So the fact that a person uses gmail certainly does not provide. I mean, uses an iPhone does not provide probable cause.

(1:42:08 - 1:42:34)

There's a mention in the iPhone search warrant about Williams and Demons would send notes or audio files while composing music. That has no bearing on homicide investigation. So again, I would just submit the affidavits while they're longer than the original affidavits.

(1:42:34 - 1:42:58)

They don't provide any additional evidence. They don't provide any additional probable cause for nexus to the homicide investigation. And to the extent to which Judge Murphy is previously limited, what there is that is connected is sufficiently that there's a sufficient nexus.

(1:42:59 - 1:43:20)

There is no greater time established in these affidavits. So, Judge, I would also. As you know, I want Detective Moretti to testify because we have raised the issue of specific omissions and this

stipulate.

(1:43:22 - 1:43:34)

So you want to tell me? I'm going to let you say anything you want to tell me about that. I'm going to take a quick break for the court court and court staff and then I'm going to let the state respond to everything. But I got the overbroad part and I got the lack of probable cause.

(1:43:34 - 1:43:49)

At this point, understanding the state stipulation, that nowhere in any of these affidavits does the detective tell the reviewing magistrate that these issues. We've already gotten all these records. This has been litigated.

(1:43:49 - 1:44:20)

It's been subject of a motion to suppress, which both sides have appealed the ruling and we're waiting for the District Court of Appeal to issue their ruling. The state doesn't... Whether that was done intentionally or maliciously or whether it was just not done, they don't dispute it wasn't done. So anything you want to tell me about that? Well, I think for the legal analysis, there is the issue with regards to intentionally misleading by leaving out.

(1:44:20 - 1:44:40)

And I think in addition with regards to what is intentionally left out are the other facts that I stated in the motion. In terms of, you know, the evidence was that they were at a recording studio the night before. There was nothing to indicate there were disagreements.

(1:44:41 - 1:45:04)

It's curious in the state's response. They say there is because of Dontavious Withers, who is essentially providing an alibi for Mr. Demons in his statement. So they rely on Mr. Withers' statement that Mr. Demons said he got into the other car because they were having a disagreement.

(1:45:05 - 1:45:40)

But if you take Mr. Withers' statement, then Mr. Demons wasn't obviously involved in the homicide. So I think that we may need to address the intentional nature of it, but we may not need to get there if the court finds them overbought. I also think that not only did he omit the evidence, I think it is important that a court found and an appellate court affirmed that Detective Moretti did not act in good faith.

(1:45:41 - 1:46:00)

In searching through all these records. I think that's important. And I think that's an analysis almost like the analysis about the extent to which, you know, a cooperating witness or an anonymous tipster has to have some reliability.

(1:46:01 - 1:46:37)

Detective Moretti doesn't have reliability based on the prior trial court order and the 4th DCA approving of that. I also do think that the reviewing judge would have wanted to know that another judge had heard all this litigation, had suppressed all this evidence, that the state was actively appealing and that there was an appellate court reviewing. But none of that is put in any of these affidavits.

(1:46:37 - 1:48:03)

And some of that leads to what I believe is a due process argument. Judge, while they got other warrants, they didn't disclose the other warrants, the typical situation would be, hey, we got other warrants in March, let's remand so we can litigate the legality of those motions, because why are we spending both the lawyer's time, Mr. Demond's money, judicial resources on an appeal when when the appeal is finished, we're going to say, hey, by the way, or as was said to me, that's why we were never worried about Judge Murphy's order as we got another warrant. That's pretty offensive.

That's pretty offensive. And I think that does go to good faith, bad faith in this whole process. And to think that we are doing this entire appellate, I can't imagine what the appellate judges would think, that they heard this entire appeal when the state was obtaining the same evidence in a lateral proceeding.

(1:48:04 - 1:48:36)

So I think that that is a factor the court should consider in deciding these motions, because it does go to sort of good faith, due process, and, you know, constitutional rights of Mr. Demond. So that will conclude my initial argument. I will also rely, obviously, on all that has been submitted and will respond after this date.

(1:48:37 - 1:48:46)

Okay, real quick five minute restroom break for the court staff, and then I'll hear from the state. So we'll be in recess for five minutes. Thank you.

(2:02:11 - 2:02:32)

What did she say? Something about the dates wrong, because it said 11-11, and we weren't here because of Veterans Day. And then this case was resolved on November 12th. And then whatever's on the sticky note.

(2:02:33 - 2:02:56)

See what happens when we run into this Wilcox. Yep, okay. All right.

Mike, you good? Yeah. Okay, I'm going to go back on the record. This is State v. Jamel Demons, 19-1872 CFNA.

(2:02:57 - 2:03:06)

I continue to have Ms. Buckley and Mr. Griffiths present for the state in the courtroom. Ms. Collins on Zoom. I continue to have Ms. Howitt, Mr. Finley, Ms. Advin present.

(2:03:07 - 2:03:30)

Mr. Demons in the courtroom with Mr. Demons, who continues to be present. When we took our quick break, I just heard at least a portion of the defense argument in support of the motion to suppress evidence obtained from Instagram, Snapchat, Google, and iPhone pursuant to warrants issued March 21st, 2024. I'm going to turn to the state's response to Mr. Griffiths.

(2:03:31 - 2:03:54)

Let me ask you a couple questions, so I make sure I have the facts straight, and then I won't interrupt you with whatever argument you'd like to make as to all of these issues. I notice, for example, in the last warrant, this is the phone warrant. But this sentence is present in all of them.

(2:03:54 - 2:04:25)

But on the phone warrant, it's page 58 of 58. The first full paragraph, it says, This warrant seeks to expand the previously permitted warrant timeframe based on review of the admissible evidence in the cases thus far. So am I correct as to all four of these categories that I've laid out, and that the defense is moving to suppress Instagram, Snapchat, the iPhone, and the Google email? Law enforcement was already and actually in possession of all of this information already.

(2:04:26 - 2:04:33)

There was no new information delivered by any of these providers. Correct. The information, yes, it was stored, but yes.

(2:04:33 - 2:04:42)

That's number one. In the way that they deliver to law enforcement? Yes. Based on the preceding warrants that were the subject of the litigation? Yes.

(2:04:42 - 2:05:28)

And number two, do you agree with the defense position in their motion to suppress that on all four of these affidavits, there is no mention that there's been prior motions to suppress, there's been prior litigation in the circuit court level, there was a prior ruling by a circuit court judge, and that there was, at the time these warrants were submitted, an active appeal and cross appeal of that circuit judge's ruling, a ruling of which was pending from the District Court of Appeal, but had not happened on the date that these warrants were submitted. Do you agree with that? Correct. I might disagree if it wasn't explicit, but that's a correct statement.

(2:05:28 - 2:05:30)

There's a shot in there. Yes. Okay, got it.

(2:05:31 - 2:06:47)

All right, so, Mr. Griffiths, anything you want to tell me about, and I guess I'm not going to limit you, I'm going to try to streamline this a little bit, the defense has made some arguments about overbroad, in fact they may be overbroad, they made some arguments about certain requests lacking PC and they may lack PC, but as far as what Frank tells me to do, which is any material misrepresentation or any omission, I'm supposed to go back and fix that problem and then see if I was the reviewing magistrate or would a reviewing magistrate sign that warrant. And that's really what I would like you to address your comments on, is that I don't, Ms. Howlett says there might be an intent element, whether the law enforcement was maliciously left this out or inadvertently left it out, I don't know that the case law even requires me to make that type of determination, but I guess what I want to know is why wouldn't you put that in the warrant, all the prior litigation? And I read your response and I knew you were going to explain that. And then, why would that be left out? Because I understand your argument that, well, a lot of this stuff just turned out to be okay.

(2:06:47 - 2:06:56)

It's in. Judge Murphy ruled that it was in and the 4th D.C.A. affirmed that. But we didn't know what the 4th D.C.A. was going to do at the time this was submitted.

(2:06:58 - 2:07:41)

So, that's what I can tell you, that's what I'm stuck on, is why you wouldn't tell the reviewing judge, oh, by the way, this has all been litigated before, a judge ruled on it before, we appealed it, the other side appealed it, and we're waiting for a ruling to see if we can open up this stuff, which we already have, and it's already been litigated. So, anything you want to tell me about the overbroad, about the lack of probable cause, or about the Frank's issue regarding the total omission of the prior warrant request? I'm going to go through all those, Judge. I want to first address standing, just because counsel brought it up.

(2:07:42 - 2:08:00)

Standing always remains an issue, and we're still at that point in a trial posture, whether the defendant is going to assert whether he had exclusive possessory control over the device or the accounts. They recently listed or relisted Adrian Davis as a witness. Adrian Davis, in the first trial, I believe, testified it was a community phone.

(2:08:00 - 2:08:15)

If he testifies the same way again, we're wasting our breath here. So, that's going to remain an issue. The issue is, is it in fact a defendant's phone or a community phone? The same thing happened with the Instagram account and the Google account.

(2:08:15 - 2:08:34)

They listed witnesses, prior counsel, but they listed witnesses prior to the motion to suppress, stating that those accounts were under the control of a promoter, and that he did not have exclusive control over those accounts. So, it again remains an issue as to standing. And that's why I start off with that, because trial is weeks away.

(2:08:34 - 2:08:51)

It is time for them to assert whether it is a community phone or not, whether he had exclusive control over those accounts or not. If not, there's not really much more to argue. Going past that, because that needs to be answered, candidly judged, it needs to be answered today.

(2:08:52 - 2:09:02)

They need to make a decision. The first issue is turning as to whether these warrants are overbroad. And it's the state's position, obviously, that they're not.

(2:09:02 - 2:09:12)

One of the things that defense counsel kept mentioning in their argument is date range, date range, date range. Except, date range is not the only limitation. The courts recognize other limitations.

(2:09:13 - 2:09:23)

And some of those include who is being communicated with. If you're naming specific parties in emails, like, I want all communications between Mr. Griffiths and Judge Fine. That is a recognized limitation.

(2:09:24 - 2:09:35)

I provided the court the case on that in the motion. And that is some of the limitations that are provided. They discuss in, just kind of going through the Instagram account, the expanded date

range.

(2:09:35 - 2:10:03)

Well, on page 49, one of the things that they talk about is an interview with Patrick Delone, who talks about how the defendant would try to acquire firearms from him, gave a statement, and that they had been friends for two or three years. So one of the things that the state is always going to be interested in, that the jury is always going to be interested in, is motive. What's going on? What was going on prior to the homicides? Is there a motive? Those are things that the court is reasonably allowed to look at, that a detective is reasonably allowed to look for in order to explain the actions of the defendant.

(2:10:03 - 2:10:17)

Because at the end of the day, that is something that the jury is going to look for. There's discussions about gangs and his gang activity. Well, it only takes common sense to realize that many homicides that occur are related to gang activity.

(2:10:18 - 2:10:43)

Some of the case law provided to the court talks about how there is supposed to be deference to law enforcement when it comes to their expertise. And these detectives' expertise and gang involvements and gang shootings lends to the probable cause as to why they want to seek that kind of information. When we look at the Snapchat warrant, there's discussion that the only reference that he used Snapchat was the conversation with Mariah.

(2:10:44 - 2:10:59)

Yet on page 26 of the affidavit, there's conversations with the witness, Mr. Withers, who discusses his use of Snapchat. On page 31, Felicia Holmes discusses the defendant's use of Snapchat. On page 41, Ms. Badger discusses the defendant's use of Snapchat.

(2:10:59 - 2:11:21)

And on page 59, they discuss how they've been friends since childhood. So if the suspect has killed two of his childhood friends, there's obviously a long history between them, including what led up to the homicide. And that is obviously very important and relevant information as to what happened that night or what led up to that night to explain the actions.

(2:11:22 - 2:11:33)

There's also further discussion, and some of the warrants do this. I'm sorry, could I interrupt for one minute? Could we just refer to what we're referring to? I'm not sure what warrants we're referring to. Take your time, Mr. Dirkens.

(2:11:33 - 2:11:37)

The Snapchat warrant was what I was just referring to. Okay, thank you. Previously the Instagram.

(2:11:39 - 2:11:54)

I mentioned, you know, with the Gmails where there's discussion about wanting the communications and there's a list of different individuals. These individuals are named in the warrants and what their relative involvement is. And as I just pointed out to the court, the case law allows for categorical searches.

(2:11:54 - 2:12:01)

It allows for different types of searches. Date range is the preferred one. Case law is clear about that, but it is not the only one.

(2:12:02 - 2:12:22)

When it comes to the phone, they complain about, you know, the GPS information and wanting that long period of information on page five. Oops, sorry, page four where it starts. The all stored location data from October 1st through February 13th.

(2:12:22 - 2:12:28)

But then they fail to go on. The detective explains why he wants that. Timeline shows a pattern of life regarding the defendant.

(2:12:29 - 2:12:42)

Establishing the user of the device at all relevant time periods. It's required on homicide to show the defendant utilized the phone prior to committing the crime versus on the day of and thereafter. And it is common for such a pattern of exchange and significant evidence in this case.

(2:12:43 - 2:12:54)

Based on training experience, it's also common for defendants to claim community phone defense. So he does lay out in there why he wants that expanded time frame. Because it puts the phone in the defendant's hand on a regular continuous basis.

(2:12:54 - 2:13:24)

So that if he does claim that it is a community phone, it can be rebutted with the evidence showing that, well, if it's a community phone, everything that relates to GPS location information correlates with other activities of Mr. Devins establishing that he's in fact the person in control of

the phone. And this is a common theme with just about every piece of electronic evidence today is establishing the defendant is in fact the person in control of the device. Many of them have the right, say, prove it.

Say, prove it's my phone. Prove it's my computer. Prove it's my account.

(2:13:25 - 2:13:52)

Well, this is one of the ways it's done is by showing the other activity that's going on in the device that shows that he's in fact the person in control of the device. And since the defendant in this case so far, at least in the first trial, has specifically claimed that it was not exclusively his phone, he's in fact himself made it a relevant issue. But the warrants go through piece by piece and explain why a lot of this information is sought.

(2:13:53 - 2:14:30)

Even in the warrant affidavits themselves, I'm sorry, in the state's response, we do provide some brief notes and references as to why certain things are sought, such as the Instagram account from page 72 of the court's response, the state's response. The defendant's gang affiliation, the new warrants contain additional information about the defendant's gang affiliation, including public posting, text messages, interviews with other individuals, and videos dating back to 2017, strongly demonstrating the defendant's gang affiliation. And given that the victims were also members of a gang, then there is evidence of ongoing dispute between these individuals.

(2:14:31 - 2:15:16)

That helps establish that there is probable cause to believe that there is information related to this gang activity, these ongoing disputes that led to the homicide. That similar information is repeated, because the motions and the affidavits do repeat themselves, in the Google warrant on page 74 in the second full paragraph. The section that, I mean, counsel made reference to it briefly in the, let's see if I can find it real quick, in the Google warrant on page 45, they reference that February 8th paragraph at the bottom, met a respondent with Instagram records pursuant to a search warrant.

(2:15:16 - 2:15:21)

These records show private. That was all information that was permitted. That does not include information that was excluded.

(2:15:22 - 2:15:33)

That was permitted information. That comment, I did that, shh, is specifically in the state's response to the court's order about what remains admissible evidence. So this references only admissible evidence.

(2:15:33 - 2:15:50)

None of these warrants contain anything that was suppressed. They only reference evidence that was either previously known and admissible or determined to be admissible. So there's no issues regarding misstatements as to what is permitted to come into evidence.

(2:15:52 - 2:16:11)

The Google warrant continues on, on page 76 of the state's response. There are some explanations I provide in terms of what information was available to law enforcement in terms of the gang activity and why that was now being sought, irrespective of the previous motion to suppress. The iPhone, again, the same thing.

(2:16:13 - 2:16:45)

They, there's talk about a statement where there was a dispute with Dontavia, or that the defendant had a dispute with one of the victims and there was one reference to it, but that wasn't the case because there were actually other references to it, including the defendant's witness, who testified that that was one of the reasons they switched cars that night, allegedly, is because that they were having an argument and Mr. Demons wanted out of the vehicle. And so all of this gets placed into evidence by what is contained in these warrants. So they are not generalized.

(2:16:45 - 2:16:59)

They're not overbroad. They lay out specifics as to why the explanations are long. But one of the things that the court has to remember is that when these are being reviewed by a neutral magistrate, it's a common sense approach for determining practical cause, probable cause.

(2:17:00 - 2:17:18)

And the judge is allowed to rely on the expertise of these officers, these people who are swearing to the information contained in the warrant, as to what it potentially means. And so that is laid out repeatedly in these warrants that there is evidence of gang activity. There's long-term, there's evidence of an ongoing dispute between these individuals.

(2:17:18 - 2:17:35)

Looks like it's related to their rat collective and how that is now permeating and leads up to a homicide. All of that is laid out in the warrants, which explains why the officers, why the detectives, are seeking that information. So it's a safe position that it's not overbroad.

(2:17:36 - 2:17:46)

Turning to the final part, which is the court's question as to why the suppression was not included,

is because it's not required to be. It's not an intentional omission. It's simply not required to be there.

(2:17:46 - 2:18:16)

And when we look at the case law, what the court is supposed to rely on are, are there sufficient facts laid out to make a determination for probable cause to exist? The fact that other evidence was excluded isn't relevant to a neutral magistrate making a determination. It's if there is evidence now supported by probable cause, by these affidavits, to allow for this search. And that's one of the reasons I gave the courts that string of cases where this behavior has been done.

(2:18:16 - 2:18:41)

Where a previous warrant is suppressed, law enforcement seeks a new warrant, and the new warrant is upheld. It's not a relevant determination for purposes of probable cause whether previous evidence was suppressed. Because if it was suppressed and the courts can go back and look at what's remaining or what has been newly discovered and make that determination that now Prop PC does exist based upon this new warrant, then they can lawfully grant it.

(2:18:50 - 2:19:08)

Counsel did make one argument about how the fourth did not find that the detective acted in good faith. I think we're confusing arguments. The state argued that there should be a good faith exception to allow the previous warrants to stand, and overbroad does not apply to good, or good faith doesn't apply to overbroad.

(2:19:08 - 2:19:16)

That's the only determination made. He went and sought warrants. He acted in good faith that these warrants were legal, but they were determined to be overbroad.

(2:19:16 - 2:19:27)

That's what the fourth DCA is. They're not saying that he acted in bad faith or that what he was doing was malicious. They're saying that that exception didn't apply to the overbroad issue.

(2:19:40 - 2:20:00)

But we think it is sufficiently laid out by these new affidavits. The defendant might have preferred if it was explicitly stated that emotion is suppressed and been granted, and we are now relying on the previously admitted evidence to get new warrants, but that wouldn't change anything. I think the court started to address it in terms of Frank's argument.

(2:20:00 - 2:20:28)

If you add in that information, it doesn't change the determination, because at the end of the day, the only thing the court is doing is making a probable cause determination based upon the facts of the case. That's what the reviewing magistrate had before it when it reviewed these warrants. I think the rest of their arguments are addressed in my response.

(2:20:29 - 2:20:39)

Okay. Press pause, Mr. Chair, because I've got some questions for you. Ms. Howell, in your presentation, I've got a copy of the fourth DCA's order.

(2:20:39 - 2:20:48)

I have a copy of Judge Murphy's order. Did I hear you say someone expressly said we've resolved the standing issue? Yes. Where is that? Okay.

(2:20:50 - 2:21:06)

I got it, Judge. It is in Judge Murphy's, because we had re-hearings, we had reconsideration motions. It is in Judge Murphy's order denying – let's see what I've got.

(2:21:17 - 2:21:46)

It is order denying the hearing. You can't live without paper, but I can't keep it organized. Are you talking about the order dated November the 11th, 2024? I think so.

(2:21:49 - 2:21:59)

Wait, wait. There it is. It is dated, actually, January 11th, 2024.

(2:22:00 - 2:22:03)

I'm looking at it right now. Okay. On the third paragraph.

(2:22:13 - 2:22:18)

The state's argument for the defendant's lack of standing is not right. Okay. I got it.

(2:22:18 - 2:22:20)

Okay. I needed to see that. All right.

(2:22:20 - 2:22:28)

Mr. Griffiths, let me go back to you. So, listen, I read Murray, which is the U.S. Supreme Court case. I read all your cases.

(2:22:29 - 2:22:43)

A lot of the cases, to me, are inopposite. It's not two warrants. It's a search, like it's a plain view search, or law enforcement or a probation officer goes into a house, they see something, and they back out.

(2:22:43 - 2:22:48)

And then they go apply for a warrant. And those are all upheld. And I understand that.

(2:22:48 - 2:22:58)

But that's not this case. This case is, a search warrant is done. The defense files a motion to suppress.

(2:22:59 - 2:23:14)

Large swaths of that information are, in fact, suppressed. And then it's appealed, and then it's cross-appealed. So, you're telling me that it's not required that you let the magistrate judge know that.

(2:23:14 - 2:23:25)

But Frank says, I'm supposed to plug in the omitted parts. And if someone came to me and said, Judge, here's a warrant we'd like you to sign. By the way, we already litigated this.

(2:23:25 - 2:23:31)

Another judge suppressed some of it. But we appealed that. The defense appealed the other half, and we're waiting for a ruling from the DCA.

(2:23:32 - 2:23:39)

I would never sign it. And I suspect there's no judge in this building that would sign it. They would wait and say, well, let's see what the 14CA has to say.

(2:23:39 - 2:23:54)

I just don't see why you would leave that out. So, I tried to find our exact situation, not Murray. Mr. Griffiths, look at page, it starts on 69 of your written response.

(2:23:54 - 2:24:10)

Non-disclosure of the previous ruling on warranted issue. And then the next last full sentence on the bottom of 69 says, previous court found only that portions of the property sought section were overbought. It was upheld by the 4th DCA.

(2:24:10 - 2:24:19)

The redone warrants relied only on admissible evidence, which Murray says you can do. And Tyson and other cases you've cited. You go on to page 70.

(2:24:20 - 2:24:43)

This is also why the warrants make reference to admissible evidence and expanding upon original warrants. The reviewing court is made aware that there was a previous warrant and the facts contained within the warrant reflect permitted evidence it may review. But that's not what happened in this case, right? The reviewing magistrate was not made aware.

(2:24:44 - 2:24:54)

This is your science. The reviewing court is made aware that there was a previous warrant. But you agree with me that didn't happen in this case, right? That's correct.

(2:24:54 - 2:25:04)

I mean, it's my argument that based upon the way it's explained in the warrant, it's reasonable to infer. But, no, it is not explicitly said. The judge simply gleaned that.

(2:25:04 - 2:25:16)

By the way, there's been a whole motion to suppress, enormous litigation. Judge Murphy had to do this labor-intensive task of deciding what stays in and what comes out. Both sides have cross-appealed that.

(2:25:17 - 2:25:28)

We won't tell the new magistrate judge that, but they should somehow glean this information from what's in the PC. Is that what you're saying? Yes. But... Let me.

(2:25:31 - 2:25:48)

So, addressing the first issue, I do, or going back to the first issue the court brought up about redoing a warrant, I do address that on page 63. There is the case U.S. v. Tyson, where there was a motion to suppress a warrant on a phone that was over-broad. The motion to suppress was granted.

(2:25:48 - 2:26:01)

Did he tell the judge this is warrant number two? It's not contained within the facts, and it's not contained within any of the documents, at least that I could find in Westlaw. Because I'll be honest, in the scripts to me, that's the whole problem. But it's not material.

(2:26:01 - 2:26:21)

If you tell the judge that, we'll fine. Because you're saying we based it on admissible evidence, but you didn't know what the admissible evidence was going to be at the time because the Fourth D.C.A. hadn't ruled yet. Both sides knew what Judge Murphy had ordered, but you were hoping he was wrong, and they were hoping he was wrong, right? You all went to the Fourth D.C.A. and said, Judge Murphy's wrong, we get all of this.

(2:26:21 - 2:26:49)

And they went up to the Fourth D.C.A. and said, Judge Murphy's wrong, they don't get any of this, right? So we didn't actually know what the admissible evidence was until October 15, 2025, the date that the Fourth D.C.A. issued their order. The warrants were based on what Judge Murphy's ruling was, and the reason that the warrants were not disclosed immediately is because we were waiting, I think I explained that in the response, we were waiting to see what the Fourth said, because that was obviously going to affect it. The warrants ended up getting turned over because of the court's discovery deadline.

(2:26:49 - 2:27:22)

But at that time, we were still waiting to see what the Fourth said, because if the Fourth had reversed and denied the motion to suppress, the new warrants effectively would have become moot because everybody would have remained admissible. And had they suppressed everything, then with the defense sought, it likely would have also changed the outcome of what we were doing with the new warrants. So unfortunately, we were playing a waiting game with the Fourth D.C.A. to see what they were going to do, and they took, I believe, 18 to 20 months to make a decision when we were expecting it to take six months, which is kind of normal turnaround time, at least in my experience.

(2:27:23 - 2:27:49)

And so that's the rationale for why we were waiting, because we were waiting for the Fourth to disclose, or to make that ruling, because depending upon how they ruled, it would have an impact. But they basically decided status quo, which means the warrants that we wrote, or that were written by the detective, or the warrants that were written, were in fact an accurate representation of what Judge Murphy and the Fourth ruled. Right, but you didn't wait.

(2:27:51 - 2:28:05)

Right? Well, we had the discovery cutoff, so we had no choice. We had to act, and then wait and see. I just want to make sure that I'm correct again, Mr. Griffith.

(2:28:05 - 2:28:15)

Again, your written response, your word, the reviewing court is made aware that there was a previous warrant. You don't have any authority. None of your cases that you cite say that.

(2:28:15 - 2:28:39)

We can do warrant number one, then we can do warrant number two. We don't even have to tell the judge there was warrant number one, and we're good. I couldn't find no case law on that specific issue, which is why I provide the string cite starting on page 63 of where that was done, but I couldn't find an example, because they just say that the subsequent warrant was determined valid because it was based upon facts that were either admissible or known to law enforcement.

(2:28:39 - 2:28:51)

And so the idea of doing a second warrant is upheld. They don't clarify, but again, it turns back to what I talk about about common sense and relying on material facts. I agree with you.

(2:28:51 - 2:29:04)

It's just probable cause, and you're supposed to give the review and magistrate great weight. And do you have probable cause for at least some portion of the extra stuff that you got in these? Sure you do. Sure you do.

(2:29:05 - 2:29:22)

And are they not overbroad based on some of the things that are in here and based on the way the superseding indictment was? Sure you do. But I'm still not getting over the part, why didn't you just tell the judge that? Because that's what I would have done. I wouldn't have signed this.

(2:29:22 - 2:29:31)

I would have said, let's wait and see what the 4th DCA does. And you all were waiting for a period of time to see what the 4th DCA would do. I'm not unsympathetic.

(2:29:31 - 2:29:46)

I lost 750 special set jurors in a trial date in September of 2025. This issue should have been resolved over a year ago. But because the 4th DCA didn't rule, and my recollection is you all asked me to continue the trial, and I said no.

(2:29:46 - 2:30:00)

And you had to go to the appellate court and get a stay. They had to order me not to do the trial. So I'm certainly sympathetic to that, but I just can't see any reason why you wouldn't tell the reviewing magistrate judge that fact.

(2:30:00 - 2:30:32)

And I don't see any authority that says... Because if it's in there, then essentially I would now be in the position of doing exactly what Judge Murphy was already in the position of doing. I would have to take on the task of going one by one on these four additional warrants and figuring out what stays in, what stays out. I mean, again, for example, and I'm conceding to you, Mr. Griffiths, some of the things you're asking for, you have probable cause and it's not mobile block.

(2:30:32 - 2:31:08)

But when you label a certain request and it says from the creation of the account, and I'm mimicking the language that the 4th DCA judges use, you're not standing here saying if he's had an Instagram account for 20 years, we get every single thing for the last 20 years, right? You're not making that argument. That would even be... I mean, it depends on a case-by-case basis, but in this case we were looking at several years of information. Because of the long-standing relationship between the two victims, particularly one of them and the defendant, because of the ongoing arguments or disputes that multiple witnesses had testified existed.

(2:31:10 - 2:31:47)

Okay, I understand. Anything else you want to tell me? Well, I don't know if I need to, but I will just to provide a little bit of support for the court's concerns. And that is... So in Alderton v. State, 2nd DCA all the way back to 1983, 438 Southern 2nd, 1000, the police went in to a house, held the defendant and participants there while they got a warrant.

(2:31:49 - 2:32:24)

They went and got a search warrant, but then disclosed to the court that the search and seizure had basically already occurred. And going specifically to their site, to a federal case, they say, although we appreciate the difficulties the police face in balancing effective law enforcement with complex Fourth Amendment rules, illegal... So this is a home. But it could be a... Today, that was, you know, 50 years ago.

(2:32:24 - 2:32:39)

It was a home. Today, it is a social media account. Illegal entries into homes cannot be sanitized by the simple expedient of seeking warrants after the illegal entry has occurred, and the police are confident that contraband can be found.

(2:32:39 - 2:33:32)

Moreover, failure of the police to disclose the ongoing search and seizure in their affidavit for the search warrant frustrated the very purpose of the warrant requirement to place a neutral magistrate between the public and police conduct. And so the same in, and I believe I cited State

v. Ramos, older cases. So I think the court is absolutely right, and frankly, I raised my eyebrows at the argument that we would not have even disclosed the new warrants, but for the appellate court, but for this court setting a discovery limit.

(2:33:32 - 2:33:54)

That's what they said. So that certainly is not a defense to omitting this information from the signing judge. You know, at the time, I'm not sure when you took over, judge was trying to discern that, but it seemed like there was, like, ongoing litigation even in the case.

(2:33:55 - 2:34:43)

So to not, I get there's a system for who signs warrants, who doesn't, but to not even say there's ongoing litigation, there's a trial judge assigned, there's warrants that had already been found to be overbroad, and I do think that when a court says a police officer cannot rely in good faith on a warrant, the opposite of that is it's bad faith. So I think that it's clear those things should have been disclosed, and just for the record, I want to just point out some things that are wrong in the State's response. They make mention of a conversation regarding the purchase of firearms prior to the offense.

(2:34:44 - 2:35:09)

The only evidence that's ever been presented is text messages three days after the offense. So that's simply a factual error, and then I would reiterate the issue with regards to the conclusory statements about gang involvement, and different what sects. We have scoured the prior evidence.

(2:35:10 - 2:35:35)

We've scoured what has been provided. There's not ever been any evidence that there was somehow some sort of gang conflict among the parties, and there is nothing alleged other than the conclusory statement of Detective Wright. And finally, I think that this argument about we can list names and that narrows it.

(2:35:38 - 2:35:59)

You know, somebody lives in a home for 20 years. Because they lived in a home for 20 years, that doesn't allow a... You know, that doesn't mean you get to search just because that's where they lived for 20 years, and I think the same is very true with these accounts. Because it's something they used is not sufficient.

(2:35:59 - 2:36:29)

It's interesting the state actually admits they were searching for motive. So I get it they want to

search, but there has to be probable cause for that search, and there simply was not in this case. So for all the reasons that we have put forth, we of course should grant the motion to suppress and put us back in the status quo until a judgment is ordered.

(2:36:31 - 2:36:43)

Okay. Mr. Griffith, anything else you want to tell us? Alderton doesn't look like it applies. They were... The court found that there were no exigent circumstances to enter into the residence before they applied for the warrant.

(2:36:44 - 2:37:08)

This is wholly different in the sense that we did have, A, lawful warrants originally, and, B, as discussed in my response, the initial taking of data from things like Meta and Instagram, Google, does not trigger the Fourth Amendment. It's only when the actual search is conducted. You mean the search of the electronic material? Yeah.

(2:37:08 - 2:37:11)

You already have, but you didn't look at it. Right. The case law is pretty clear.

(2:37:11 - 2:37:27)

Anytime we receive, we've done, send a warrant to Google or whoever to provide us with copies of an account. The courts don't consider a Fourth Amendment search to have occurred until law enforcement actually go through it. So the fact that they sent it to us, no Fourth Amendment issue has been triggered at that point.

(2:37:28 - 2:37:41)

Okay. Okay, so listen. As to the defense motion to suppress, just so the record's clear about this, I would probably, if I was forced to, find some of the requests to be overbroad and some not.

(2:37:41 - 2:37:54)

I would find there was probable cause for some of the requests and some not, step by step, the way Judge Murphy did, but I don't even have to reach that point to do that. So the record's clear. My ruling is based on the following.

(2:37:55 - 2:38:28)

Pursuant to Frank's, pursuant to all the Supreme Court case law, I'm supposed to change the warrant affidavit and either correct what's in error or, in this case, insert the omitted facts and then say with the same magistrate to find probable cause what I find probable cause. Again, and it's a troubling sentence, and it's in each of the four warrants. On the phone warrant, it's on page 58, it

says this warrant seeks to expand the previously permitted warrant timeframe based on review of the admissible evidence in this case thus far.

(2:38:29 - 2:38:58)

So while you draft a 58-page warrant, and some of these are 70-plus affidavits in support, and you don't add the next sentence, which is the previous warrant was the subject of a motion to suppress. Judge Murphy made a ruling granting the motion to suppress in part and denying it in part. The defense has appealed that pending ruling, the state has cross-appealed that pending ruling, and it's currently in front of the 4th DCA.

(2:38:59 - 2:39:11)

Because if that was presented to me, and again I'll repeat to any judge in this building, they would not sign it. They would say, let's wait and see what the 4th DCA has to say. But that's not what the state did.

(2:39:12 - 2:40:02)

So for that reason alone, alone, I'm not making a PC or over-breath argument, but for that reason alone, if this was completely omitted, whether that was done on purpose to mislead the reviewing judge, or whether it was done... I just don't know how it could be an accident. I just don't know how litigation of this size could go forward without, again, I'll quote the state's response, without letting the reviewing court be made aware that there was a previous warrant, then it fails, because I won't sign it. So pursuant to Frank's, the defense motion to suppress evidence obtained from Instagram, Snapchat, Google, and the iPhone, pursuant to the warrants issued March 21st, 2024, is going to be granted in full.

(2:40:03 - 2:40:30)

The evidence at trial is going to be Judge Murphy's order, dated December 20th, 2023, and affirmed by the 4th DCA on October 15th, 2025. All the time frames as to each item on that list, that's what's going to be admitted. Now, defense, I've got to tell you with one caveat regarding the state's continued standing issue.

(2:40:30 - 2:40:52)

It's the law of the case. I agree with you about that, and the 4th DCA already ruled on it, but no different than a suppression of a client's statement or some other item. If the evidence comes out at trial, and all of a sudden changes the fact that this phone doesn't belong to him, or this Instagram account doesn't belong to him, well, then maybe that changes the admissibility of all of these items.

(2:40:52 - 2:41:11)

I think Judge Murphy said the same thing. I've got to take that as it comes. So it doesn't foreclose it, depending on what happens, but at least at this point, the motion to suppress is granted in full under the appropriate written order today, which will incorporate everything that I've announced here in open court and state.

(2:41:11 - 2:41:21)

So you're crystal clear on this. If those extra two sentences that I just articulated was included in these affidavits, I would rule the other way. I would rule the other way.

(2:41:21 - 2:41:42)

And I would go step by step as to what's in and what's out based on over-breath and based on probable cause. But to put a judge in a position of not telling them the full procedural posture of the case and having them make a blind decision of probable cause, it kind of defeats the whole point of the exclusionary rule. It kind of defeats the whole point of all of this exercise.

(2:41:43 - 2:42:00)

And when you're drafting affidavits that are 50, 60, 70 pages long, to add those two most important sentences or three most important sentences, I just can't find any good reason why that wouldn't happen. And like I've already said, I would not have signed it being presented with that information. So that's going to be that rule.

(2:42:01 - 2:42:06)

Judge, can I say one thing? I don't want to. Sure. And it's just for purposes of your written order.

(2:42:06 - 2:42:13)

I think you mentioned the defense appealed and the state cross appealed. It was the opposite. Well, both sides went up to the court of DCA.

(2:42:13 - 2:42:30)

Yes, I just wanted to, for whatever reason... Each side, present counsel included, explained in great detail in the court of DCA how Judge Murphy got it wrong, and then they decided Judge Murphy got it right. You got it. All right, next is... Judge, I'm going to hand you also.

(2:42:31 - 2:43:00)

This is the one you didn't receive. The motion excluded the alibi witnesses. Mike, you good? So going in chronological order... All right, on November 10, 2026, the defense filed a motion limiting it to exclude rap lyrics and or video from the trial in the case.

(2:43:00 - 2:43:11)

They also filed a motion, November 13, 2026, to exclude gang evidence and related gang expert testimony. So I did review the motion. The authority cited therein.

(2:43:12 - 2:43:34)

I also reviewed 874.04, the gang-related offense enhancement statute that is included in the superseding affidavit in the present case. I also, besides all the authority cited, I reviewed a case called Turner... Excuse me, Richardson v. State. 338 Southern 3rd, 1106.

(2:43:35 - 2:44:11)

That's a first DCA case from 2022... ...regarding photographs, gang signs, gang insignia... ...and other items of that type of evidence, some that was admitted in the case, some that was not admitted in the case, that the murder conviction was affirmed on appeal. And likewise, Hayes v. State. 338 Southern 3rd, 1123, first DCA, 2022.

(2:44:11 - 2:44:51)

I think Mr. Hayes was Mr. Richardson's co-defendant. And it also touches on rap lyrics, gang membership, and the like. So, defense, how do you want to proceed with that? This is the one that you have witnesses you want to present, correct? Yes, so with regard to the lyrics issue, that's one that the state objected to the Zoom appearance of one witness, and then the other witness that we had testifying became unavailable because he was supposed to testify on Friday.

(2:44:52 - 2:45:02)

So the lyrics issue is one we'll need to set on another day. We need to resolve the Zoom appearance issue, but also we lost a witness because of unavailability. Well, I can do the Zoom part now.

(2:45:03 - 2:45:21)

Zoom's not a confrontation. This court knows that exceptionally well, having retried a capital case, because the Supreme Court told me it's not a confrontation. State, do you object to the defense presenting any witnesses via Zoom? Because I'll tell you, I'll do it both ways.

(2:45:21 - 2:45:29)

If both sides are fine with it, it's fine with me. If either side, if someone objects to it, then I'm not going to allow it. The rules of criminal procedure give me discretion.

(2:45:30 - 2:45:42)

It's not confrontation. I can't look in the witness stand four feet away from me and look at their body language to assess their credibility. I'm looking at their picture the size of a postage stamp on the Zoom platform.

(2:45:43 - 2:46:19)

So it's not confrontation. State, what's your position, I guess, on their request to present witnesses via Zoom in the future? Well, Judge, I can't say yes or no really yet because, again, I don't really know what they're going to say, what their importance is to the case itself. That's why we wanted to pose these witnesses first to see.

. . Well, I'm going to give you a deadline for that that's based on the prior ruling I referred on. So you don't have a position yet one way or the other? Correct. Mr. Finley, are these people that you want to offer as far as the motion only, not the trial? There's not going to be any Zoom witnesses during the trial.

(2:46:19 - 2:46:41)

But in the motion hearing, is this people or persons that you want to present via Zoom only? Your Honor, I would say we just wanted the flexibility of it so we can make sure that they're available to testify. All right, so that's between you all. If they don't object to you putting something on via Zoom, that's fine with me.

(2:46:42 - 2:46:52)

If you don't object to them putting it on, vice versa, that's fine. If any side objects, the person has to be there. I think for purposes of that issue today, we just can't go forward on the repetition today.

(2:46:52 - 2:47:00)

We can go forward on the gang issue. Okay. So this is the defendant's motion to exclude gang evidence and related gang expert testimony.

(2:47:03 - 2:47:30)

So, again, I read the transcript from the prior trial, but I can't rely completely on my memory. C, at the prior trial, was there any gang testimony not from a law enforcement officer? No, Your Honor. The gang testimony that was admitted at the prior trial was only from a law enforcement officer? Correct.

He was listed as a gang expert. Okay. All right.

(2:47:31 - 2:47:41)

Mr. Finley, when you're ready, you may proceed. Judge, if I could just put on the record again, this motion was filed a week ago. November 13th.

(2:47:41 - 2:47:45)

And I was not here. Ms. Collins was at the trial. I think Mr. Griffiths was not here either.

(2:47:45 - 2:48:02)

So we are not prepared to really go forward on this until we have time to really file a response and type it. So I'm fine if they want to present their case and their argument right now, but we would ask for some time to at least provide something in writing as a response. We can do it, you know, by the end of this week.

(2:48:02 - 2:48:19)

I mean, I can make myself available any time that I'm not in a trial. I'm happy to do it with the same caveat that I announced earlier. I'll give you every minute I'm here until your trial starts, but if we don't get to it, or if I can't because of my other trials, then I guess I'll just do it on the fly, which I'd rather not do.

(2:48:19 - 2:48:36)

How much time are you looking for? How much time to file a written response? I can file it by the end of this week. I just wasn't here last week to actually do that. I suspect that without the benefit of reading your as of yet unfiled written response, I would probably ask you what is the gain evidence that you think you want to introduce in the case.

(2:48:37 - 2:49:05)

Are you going to be in a position to answer that question? Well, considering the court's ruling on the motion to suppress, I am going to have to painstakingly go through everything to figure out what would be admissible at this point, so that could take me some time, yes. Well, it's not that long, because we know what's going to be admissible and what's not. The time frames on each item that Judge Murphy gave or any other independent witness that can bring in evidence.

(2:49:05 - 2:49:19)

Sure. And these things only apply to the searches, you understand. Correct, and there's other evidence that was publicly available that I think Connor has previously mentioned that the witness would have to testify as to how we know it was publicly available, which we plan on doing as well, but we would have to obviously list that out.

(2:49:20 - 2:49:43)

Can I make a comment or two? Sure. First, I would expect that the case, I look at paragraph 16 of the state's motion to strike. Should the court elect to hear this motion, the state requests more time to prepare it properly as the evidence is germane to the state's case in chief.

(2:49:44 - 2:50:11)

Number one, unless things have changed in the last three years, I would imagine whatever existed eight years ago is already available to the state, so I can't imagine there's going to be something new. The client has been locked up since the beginning of 2019, so I'm not quite sure what's floating out there that's going to become new. Should the court grant such motion, it's likely the state would require additional witnesses and experts in order for the evidence to remain admissible.

(2:50:11 - 2:51:03)

First, respectfully, I've never heard of the concept of remain admissible. Either this was admissible at the beginning or it wasn't admissible. I appreciate what the court actually did just say, which is the state's going to have to let you know what they're going to be doing with this issue, and so we think it's incumbent on the state to make some type of proffer, because what happened in this last trial, and I feel obligated to bring this up since I'm relying on the fact I remember at the bond hearing you talking about having reviewed the transcript, so asking the court to reflect back on that transcript, literally days of testimony involve a witness just rehashing his interpretation of comments that were made as if he was translating another language.

(2:51:03 - 2:51:30)

And looking at, we cited Reyes. Reyes talks about exactly what happened in the first trial, which was it was just a complete history given, and nothing to use the Reyes word was ever shown to be relatable, and that's why that case was reversed. And so as the court will remember, what was notable is in the closing argument, Assistant State Attorney Bradley did literally not talk about gangs.

(2:51:31 - 2:51:57)

After giving an incredibly complex and detailed closing argument on a plethora of forensic issues and factual issues, when she finally got to the gang issue, she said, I'm limited on time, and was done with that issue. And why I bring that up to the court? Because at that point, the 403 damage was done. It was only introduced in the first trial to prejudice the case against Mr. Demings.

(2:51:57 - 2:52:14)

There was never an attempt to show anything that was relatable, and Ms. Howard just said that in her argument, which was days and days of testimony took place. Nothing can be changed.

There's no witnesses for the state to go out and find after eight years, no evidence, no expert's going to come in that does not know Mr. Demings.

(2:52:14 - 2:52:46)

It's going to come in and somehow make it relatable. It was not relatable in the first trial, which is why we want a pretrial ruling on this issue, because in that case, in that first case, the damage was already done, and we just don't want that to take place this time because it's a 403 violation. And remember, another part of 403 is a waste of time, because from our perspective, it was a massive waste of time in the first trial because there was no connection whatsoever.

(2:52:46 - 2:53:13)

When you do the 403, there was no probative value ever shown, which is why I think, as a trial attorney, Assistant State Attorney Bradley was very smart to not argue it because she was thinking about the record, and she kept her mouth quiet on that issue, which was probably advisable from an appellate standpoint. So we want to make sure that there's some type of proffer that takes place beforehand, which is why we want to litigate the issue for trial. Listen, I certainly appreciate that.

(2:53:13 - 2:53:26)

I can't make the state make a proffer, and if it's something that I have to defer to the trial, and we do it the hard way, so be it. We do it the hard way, and I'm not prejudging the state. I want you to understand, I'm not prejudging any of this, but I want both sides to understand this.

(2:53:27 - 2:53:38)

Just because Judge Murphy lets something into evidence, that doesn't mean that I'm going to take it. It's a new trial. It's a new trial, and what I can garner, the defense theory of the case has drastically changed.

(2:53:38 - 2:54:01)

Maybe or maybe not, I don't know. That's why I did this research on my own, outside of the thorough materials that both sides have presented to me. But this case, Richardson and Hayes, which was about the most recent thing I could find regarding admission of rap songs, videos, phone recordings, photographs, a note, and so I keep asking the state.

(2:54:01 - 2:54:17)

This wasn't law enforcement officers that testified to these things. This was former gang members, current gang members. Mr. Bradford, a current member of the 187 and former associate of PCE, he testified.

(2:54:18 - 2:54:32)

A guy named Cameron Killer Cam Thomas, he testified. In other words, the appellate court said that the state gets by all of this, with actual knowledge. And again, defense, this goes both ways too.

(2:54:32 - 2:55:13)

I guess I'm going to hear from your doctors, but I have no idea if the testimony of a college professor or the testimony of a detective expert testimony is to assist jurors with things that they can't determine based on their own common sense. And you all get to argue whatever you think the evidence is, but just because you say a college professor is an expert and just because you say a detective is an expert, I have not reached that point at all with any of this. And the case law certainly doesn't talk a lot about academic experts or law enforcement experts.

(2:55:13 - 2:55:24)

It talks about other gang members testifying in these cases. So to answer your question directly, Mr. Finney, I can't make the state make a proffer to me. I can defer on your motion in limine.

(2:55:25 - 2:55:37)

And I guess we'll take that as it comes. And if it's stuff that I have to hear proffers outside the presence of the jury and I'll send them out and listen to what they have to say, that's fine. I'm happy to listen to all of your expert witness testimony as well.

(2:55:37 - 2:55:54)

But all this is subject to dollar. And I have to find that it's going to assist the trier of fact in making some determination that they're unable to make on their own. And whether it's a photograph or a video recording or a rap lyric, if such an item is admitted in evidence, you guys get that far.

(2:55:55 - 2:56:01)

Get to your closing argument. You get to argue to the jury, here's what I think this means. They get to argue to the jury, here's what I think this means.

(2:56:02 - 2:56:14)

And then the jury decides. But that being said, I'll give you a new date if it works for everyone. And if it does, I'm happy to give you the hearing time and listen to anything you want to present.

(2:56:14 - 2:56:32)

But, Steve, if you're telling me we're not going to come in here with a proffer ahead of time as to

what we do or don't want to present, I don't know if there's anything I can do regarding ruling on the motion and limiting pretrial. I guess I'll just take it as it comes. We're talking about gang evidence, gang expert testimony.

(2:56:33 - 2:56:46)

We're also talking about the rap lyrics and that type of expert testimony. Did the state have a rap lyric expert in the last trial? No, not in the first trial. No, Your Honor.

(2:56:46 - 2:57:00)

But what I was going to say is we have no issue with providing a proffer once we go through it all to say what we plan on introducing so that we can have a consensus. Can you do that for the rap lyrics as well as for the gang material? Yes, I can. Like, here's the things we want to introduce in trial? Sure.

(2:57:01 - 2:57:09)

Okay. It just might take me some more time, especially with the holiday this weekend, in speaking with the witness who would be testifying to it. Okay.

(2:57:10 - 2:57:18)

That will make dealing with the issue, I think, a lot easier. Any reference to the exhibits that will be used will make it easier. We'll see if we can hash it out.

(2:57:18 - 2:57:31)

I always say in this issue, I have litigated this issue, Your Honor, which is if they don't want to do rap, they don't want to do gangs, we don't want to do it. But obviously that's not a decision. They have the burden and they're going to, you know, even though rap lyrics were literally not a part of the last case.

(2:57:40 - 2:57:43)

Just press pause on Mr. Denman's one second. Yes. Okay.

(2:57:52 - 2:58:41)

So, Mr. Finley, based on that, because I'm going to give you guys a deadline to produce all these people. And then, so, State, presuming my trial is over and you can talk to your colleagues on the screen about that, but that Friday, December the 18th, I can give you that whole day. I can give you Monday, December 21st, Tuesday, December 22nd, Wednesday, December 23rd, but I suspect you'd want to do it on the 18th.

(2:58:42 - 2:58:59)

I'll ask both sides, but, State, let me ask you guys. Because I'm going to give you a deadline, State, that the alibi witnesses, the expert witnesses, all have to be produced for deposition prior to that case. The 18th works better, or the next one would be a tough one.

(2:59:00 - 2:59:13)

The 18th is the date that would work. Does the 17th matter, Mr. Rubens, if I move it up a day? I could do, I can be here, I have a crazy day, I can be here the 17th. The 18th is, the issue is child care.

(2:59:15 - 2:59:24)

Mr. Finley, does the December 17th work? It does. 17th. 17th works for the State Judge, we'll make it work.

(2:59:24 - 2:59:50)

Okay. So, Mr. Finley, before we move on to the next, the motion would be to exclude gang evidence and remain gang expert testimony, as well as, you want me to defer on that, to be heard on, let each side present whatever evidence witnesses they want December 17th? Yes. Yes.

(2:59:50 - 3:00:03)

Do you have any objection to that? No, Judge. And, just so I'm clear, that's an annual proffer on that day. Well, it sounds like, maybe you find out ahead of time, and then they're going to tell me what they object to or what they don't object to.

(3:00:03 - 3:00:12)

Correct. We can take the scalpel to our argument. Okay, so those two, those go forward to December the 17th.

(3:00:12 - 3:00:20)

I'll take no action on that today. The State has their motion to exclude, Mike, you're good to go? Yeah. All right, the defendant's alibi witnesses.

(3:00:22 - 3:00:42)

On October 19th, 2026, the defense filed a notice of alibi listing the following four witnesses, Adrian Davis, Troy Wright, Tristan Wright, Dion Cuesta, Soleil. So, State, I read your motion here. I know they missed the deadline.

(3:00:43 - 3:00:56)

It is a discovery violation. It is a violation of my trial order. But similarly to the expert witnesses, I have to form a remedy striking them as the most severe sanction.

(3:00:56 - 3:01:07)

They're alibi witnesses in a death penalty case. So, I would be hard-pressed to keep them from testifying in front of the jury. Let me ask you a couple questions, Bucklin.

(3:01:07 - 3:01:26)

You might not know the answer to this, and I'm not holding you to it, you having not been part of the original prosecution. Were any of these four witnesses deposed previously by the State? So, Judge, I can tell you from, and we wrote that in our motion, is that Adrian Davis did testify in the first trial. Testified? Correct.

(3:01:26 - 3:01:40)

Was that person deposed before the trial? I believe he was, yes. So, that's why we excluded him from our argument. So, Troy Wright, Tristan Wright, and Dion Cuesta, Soleil have never been deposed, nor did they testify at the prior trial.

(3:01:40 - 3:01:44)

Correct. We have no idea who they are or what they are going to say. Okay.

(3:01:45 - 3:01:56)

And, Judge, I know you're going to issue an order that's fashioning something where we have a deadline to get that done. Where they have a deadline to produce it to conform with your schedule. Yes, ma'am.

(3:01:56 - 3:03:04)

And I know that the court has said on many occasions that even if the courthouse is on fire or the roof falls off, we are still going to trial. However, I mean, listing an alibi witness, multiple alibi witnesses, this many years later, I mean, it's absurd at this point that we're doing this, this close to trial, this many years later getting alibi witnesses, and the State is entitled to investigate these witnesses, do warrants for these witnesses, and so those warrants could potentially provide things that we now have to, well, obviously the warrants, if we do them, would be disclosed in discovery, but also anything that comes from it, potential exhibits, impeachment evidence, things of that nature, I mean, we deserve the time to at least investigate that, and especially with the holidays, these companies might not respond to us right away. Okay, so what is the relief you're

asking for, short of striking them? Short of striking them, I think Your Honor would potentially have to defer on striking them at this point because we would have to... When do you want them to appear for deposition? Prior to December 17th.

(3:03:04 - 3:03:09)

Oh, I was going to say December 11th. Sure, I'll take the 11th. Okay, okay.

(3:03:10 - 3:03:58)

So, again, understanding the time frames going forward, I'll defer on the State's motion to exclude, but this is as the three noticed alibi witnesses, Troy Wright, Tristan Wright, Dionne Clexton-Sole, as well as the four witnesses listed on December 10th, 2026, Dr. Eric Nielsen, Dr. James Downs, Dr. Cassandra Atkins-Plunkett, and Anna Cox. The defense is going to have to produce all these people for deposition prior to the close of business on Friday, December the 11th, 2026. If the depots all take place before then, so be it.

(3:03:58 - 3:04:37)

If they don't, I'm deferring on both motions, and I'll address it further. And, again, we're dealing with the unusually short time frames only because of the late disclosures from the defense, which continue to be in violation of my special set trial rule. And, Judge, I would also ask, these witnesses, I don't believe any of them are local, so does defense plan on having them come here for the deposition? We need to do depots on Zoom.

Everybody does that. We need to do depots on Zoom, hear what they have to say, and then decide. But they're not going to testify on Zoom in front of a jury.

(3:04:38 - 3:04:51)

And if you object to it, they're not going to testify on Zoom in front of me. So if they're not here when we reconvene, which is December the 17th, then I guess they won't be. We'll take that one as it comes.

(3:04:51 - 3:05:02)

So that's deferring it to both of those. Judge, can I put one thing on the record? Sure. And that is that the first trial they did present an alibi, so this isn't new.

(3:05:03 - 3:05:06)

It's just additional people. That's what I'm trying to do. Yeah.

(3:05:07 - 3:05:13)

Listen, I've deferred. I'll address something later if it comes to that. I have high hopes it's not going to come to that.

(3:05:13 - 3:05:20)

Just produce the people for depo. Let each side take their depos. I'll see you here on December the 17th.

(3:05:20 - 3:05:49)

I'm going to give you the entire day to litigate what's remaining. And I'll give you rulings on it. State, understanding I'm deferring on those last two motions, is there anything else I can do for you all today? Well, Judge, considering these new witnesses and Your Honor's ruling on the motion to suppress the new warrants that we just dealt with, dealing with these witnesses, obviously we want to know what the defendant or who the defendant was talking to, what his relationship is with these witnesses, so we might plan on doing new warrants with regards to expanding it based on that.

(3:05:49 - 3:05:56)

No problem. I would suggest you put in the affidavit this is an ongoing litigation where there's already been a trial and an appeal. Sure.

(3:05:56 - 3:05:59)

And here's what the prior rulings were. No problem. And then we'll probably be okay.

(3:05:59 - 3:06:08)

And should we submit that warrant to you or to the duty judge? No, I think you just – that goes by administrative order. I think you would just submit it to the duty judge. Okay.

(3:06:09 - 3:06:19)

Make sure that that person is fully informed of the procedural posture, and I suspect I'm not prejudging anything. I suspect there probably won't be a problem. State, what else can I address for you today? That is it, Your Honor.

(3:06:20 - 3:06:51)

On behalf of Mr. Demons, what else can I address for you today? We would orally move for an extension of the court's discovery order in order to potentially file additional motions in hopes of not spending the trial at the bench. When would you like it extended to? We're going to have the two hearings on December 17th. I'll just say all pending motions, anything you need me to do.

(3:06:51 - 3:07:20)

So I can file – we can file any motions that can be heard on that date. I mean, what are you – right now, what are you asking for? Well, I think there's – Yes. I think first there is a motion on the allegations of witness tampering that unfortunately Mr. Demons was deprived of his opportunity to prove his innocence because they were in all costs the day before trial.

(3:07:21 - 3:07:35)

Are you talking about a motion to exclude testimony and evidence regarding uncharged crime? I can save you the trouble now. The jury's not going to hear any evidence about uncharged crime, especially a case that was filed and then in all costs. Thank you.

(3:07:35 - 3:07:39)

Don't worry about that. Oh, thank you. When do you need an extension? I need less time.

(3:07:39 - 3:07:54)

So I would just – you know, I understand – I would just ask for the Friday before that Thursday. That's December 11th. Yes.

(3:07:54 - 3:08:03)

The day that you have to have all the witnesses. Yes. Because that would give the state – You want to extend the motion deadline to Friday, December the 11th at 5 o'clock.

(3:08:04 - 3:08:14)

That's what you want? That's what I want. What's your position on that request? It would allow you all the same. That's fine, Judge.

(3:08:14 - 3:08:28)

Okay. So Ms. Wilcox will give the defense a blank order to spell out the discovery deadline. Motion deadline's going to be extended to Friday, December the 11th, 2026 at 5 o'clock.

(3:08:28 - 3:08:46)

I'll sign that order today. Defense, what else can I do for you today? So this is something at the bottom of priorities. But I think the clothing order that he could dress – first, I would obviously like that for December 17th.

(3:08:46 - 3:08:50)

We'll give you another blank. That's fine. And somehow that did not include shoes.

(3:08:50 - 3:09:02)

There was something required for a shoe pass that wasn't covered by him being allowed to wear civilian clothes. Whatever line would you want him in order to – Okay. So I can do civilian clothes and shoes.

(3:09:02 - 3:09:06)

If the shoes meet BSO's criteria. Right. We understand that.

(3:09:06 - 3:09:09)

Okay. That'll do it. Thank you, Judge.

(3:09:09 - 3:09:16)

Okay. Before everyone leaves, so let me confirm. You don't need me this afternoon and you don't need me tomorrow.

(3:09:17 - 3:09:23)

Is that correct? Correct, Your Honor. Defense, you don't need me this afternoon or tomorrow. Is that correct? Correct, Your Honor.

(3:09:23 - 3:09:29)

Okay, next. Since we're not coming back tomorrow, I'll give you all a couple minutes. We'll go off the record if you want.

(3:09:29 - 3:09:47)

But here's what I need to answer in discussing this with court administration. So same setup that I used for the courtroom when we have a 60-seat jury panel. Once the jury is selected, once the trial is in session, court administration is setting up a lottery for the public seats in the courtroom.

(3:09:47 - 3:10:00)

At my direction, I've told them seats have to be reserved for the family members of the victims. Seats have to be reserved for Mr. Demons' family members as well. Because I needed those numbers, so here's the bottom line.

(3:10:01 - 3:10:14)

If we added two chairs on the ends of the short part of the gallery, state that's ten seats. Earmark ten seats for the victims' families. Is that sufficient? Ten seats? Because that's what it's going to be.

(3:10:16 - 3:10:25)

I would have to double-check to see who's coming. I think that should be fine, but we also have to account for our victim advocates who would be with them. Well, that's different.

(3:10:25 - 3:10:37)

I'll explain the whole thing. Defense, will ten seats work for you? For the courtroom, or also for the overflow? No, the overflow, that's going to be a whole courtroom. But that's only for the jury selection.

(3:10:37 - 3:10:45)

Once the jury selection is done, this courtroom will be open. The back row of the gallery is ten seats. We're going to reserve the back row for Mr. Demons' family.

(3:10:45 - 3:11:01)

The two rows of the short part of the gallery is ten seats. That's going to be reserved for the victims' families. The front row, that's attorneys, litigation staff for either side, so your victim advocates sit in the front row.

(3:11:02 - 3:11:09)

That's people that work here in this building. That's going to leave nine seats on the second row. Those are the nine public seats.

(3:11:10 - 3:11:22)

The court administration, which I'm not going to involve myself in, they're going to determine some form of lottery. Those are going to be nine seats open to the public every day. As soon as they get their ticket or whatever, that's their seat.

(3:11:22 - 3:11:39)

In other words, someone can go to the bathroom and come back and steal their seat. Now, if there's any given day of the trial where the ten seats on that side of the courtroom are not all being used, or the ten seats on that last row are not all being used, they're also going to dole those out to the public. But I'm leaving that to DSO.

(3:11:40 - 3:11:50)

They're in charge of courtroom security, and they're in charge of decorum. But I told court administration I would get the numbers to them. So I'm going to tell them ten for each side.

(3:11:50 - 3:11:59)

So you can be assured your family members, your family members, up to ten, there will be seats reserved for them every single day. Okay. Thank you, Judge.

(3:11:59 - 3:12:11)

And just one thing. I know you said the first row would be reserved for court personnel, such as the victim advocates for the family. The issue with that is that typically they're sitting with them so they can explain things or tell them when they need to leave the courtroom.

(3:12:12 - 3:12:16)

And they can go move around back and forth. I'll be as lenient as I can. Okay.

(3:12:16 - 3:12:23)

I've got to deal with the courtroom. That's what we're going to deal with. I can tell you what we're not going to have is a lot of in and out, in and out.

(3:12:26 - 3:12:37)

All right? I have two. Yes, ma'am. One is apparently we're not allowed to use this printer in the courtroom, so would we have permission to bring our own printer? You can bring anything you want.

(3:12:37 - 3:12:49)

Thank you. And the second question I have, Judge, is I was just curious with regards to raw deal. So I understand generally the hardship.

(3:12:49 - 3:13:10)

And then do we do questioning with regards to the death penalty prior to general void here, or do you do it all at once? I've done it both ways. I'm not married to it, but I'm going to do it all together as I've normally done it. And if it turns out we need to change course, I'll be happy to change course.

(3:13:10 - 3:13:21)

Okay. I just wanted to know. Well, which also means if different attorneys on the state or different attorneys on the defense want to take different portions of the jury selection process, that's fine.

(3:13:22 - 3:13:27)

At least time. I have one question. Yes, sir.

(3:13:28 - 3:13:39)

You indicated in your order that we'll go. You designated the time for jury selection, but also indicated that whenever that jury is selected, we'll then go into opening statement. The next day.

(3:13:40 - 3:13:41)

The next day. That's all the questions. Yeah.

(3:13:41 - 3:13:43)

The next day. Yeah. Okay.

(3:13:44 - 3:13:49)

State. Anything else today? No defense. Anything else today? No.

(3:13:49 - 3:14:01)

Okay. So I'm deferring on the two motions. I'm going to sign the order today regarding the depositions that will take place by the close of business on December 11.

(3:14:02 - 3:14:13)

This will pass. We're going to send this down for all pending motion on Thursday, December the 17th. We'll call that 9 o'clock to 5 p.m. With the normal lunch break.

(3:14:14 - 3:14:24)

Between 1230 and 145. His case remains set for trial. January 6, 2027 at 9 o'clock.

(3:14:24 - 3:14:38)

We're going to be in a quick recess. As soon as I have Mr. Thermides and Mr. Walker present with counsel and with the state and the court was set up, I will address the questions from the deliberating jury. We'll be in a quick recess until then.

(3:14:39 - 3:15:24)

Thank you, sir. Thank you.