

No. \_\_\_\_\_

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IN THE  
**SUPREME COURT OF THE UNITED STATES**

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ASHLEY McARTHUR,  
*Petitioner,*

v.

STATE OF FLORIDA,  
*Respondent.*

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**On Petition for Writ of Certiorari  
to the Florida First District Court of Appeal**

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**APPENDIX TO PETITION FOR WRIT OF CERTIORARI**

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FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D19-3491

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ASHLEY MCARTHUR,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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On appeal from the Circuit Court for Escambia County.  
Jan Shackelford, Judge.

April 16, 2021

OSTERHAUS, J.

Ashley McArthur was tried and convicted for the first-degree premeditated murder of her friend after the victim's remains were found at McArthur's family farm. McArthur seeks a new trial because the jury inadvertently saw a photo of McArthur pointing a shotgun. She also argues that the trial court erroneously admitted statements that she made to law enforcement, certain cell phone records, and the victim's text messages. We affirm.

I.

The victim in this case went missing on September 8, 2017. McArthur emerged as a suspect after an investigation found her to be the last person known to be with the victim that day.

McArthur's bank records also showed that she deposited a \$34,000 cashier's check made out to the victim into her own checking account and later spent the money.

On October 19, 2017, investigators called McArthur to the police station to return her cell phone and then, after advising her of her *Miranda* rights, asked questions related to their ongoing missing-person investigation. McArthur told investigators that she had deposited a cashier's check made out to the victim into a checking account that had her and the victim's name on it. Investigators also asked McArthur about cell tower records showing her to be in Cantonment at a time that she claimed to be in Milton.

After the interview, the victim's remains were found under concrete and potting soil along the fence line of a Cantonment farm owned by McArthur's aunt. The State charged McArthur with first-degree premeditated murder. Before trial, McArthur sought to suppress statements she made to investigators at the October interview as well as her cell phone records. She also filed a motion in limine to exclude any statements or text messages from the victim as hearsay. The trial court denied McArthur's motions to suppress and motion in limine. McArthur proceeded to trial on the murder charge.

During the State's examination of one of its witnesses, a photo showing McArthur in the woods crouching in hunting gear and aiming a shotgun was briefly and inadvertently published to the jury. McArthur moved for a mistrial on the grounds of prejudice. The trial court denied the motion but gave a curative instruction. McArthur was found guilty as charged and was sentenced to life in prison.

## II.

### A.

McArthur first argues that the trial court erred by not declaring a mistrial because a hunting photo was displayed to the jury showing her aiming a shotgun. A trial court's ruling on a motion for mistrial is reviewed for an abuse of discretion. *Williams*

*v. State*, 297 So. 3d 660, 662 (Fla. 1st DCA 2020). “A trial court should only grant a motion for mistrial when an error is deemed so prejudicial that it vitiates the entire trial and deprives the defendant of a fair trial.” *Id.* (citing *Heady v. State*, 215 So. 3d 164, 165–66 (Fla. 1st DCA 2017)).

We see no abuse of discretion in the trial court’s refusal to grant a mistrial due to the inadvertent display of the hunting photo. A photo of McArthur crouching in hunting gear and pointing a shotgun (not the murder weapon) accidentally flashed on the screen during trial and was before the jury for a second or two. After an objection, the court addressed the issue quickly by giving a cautionary instruction that was requested by the defense. Meanwhile, other trial testimony had noted that McArthur owned firearms, and there were photos in evidence of her in camouflage holding or shouldering firearms. Taking these factors together, the trial court’s decision that the photo wasn’t so prejudicial as to vitiate the entire trial cannot be considered erroneous. *See Green v. State*, 824 So. 2d 311, 314 (Fla. 1st DCA 2002) (“[F]actual decisions by the trial court are entitled to deference commensurate with the trial judge’s superior vantage point for resolving factual disputes.” (quoting *State v. Setzler*, 667 So. 2d 343, 344–45 (Fla. 1st DCA 1995))); *Jackson v. State*, 25 So. 3d 518, 528–29 (Fla. 2009) (concluding that state witness’s brief mention of Appellant possessing a gun was not so prejudicial as to vitiate the entire trial); *Tumblin v. State*, 29 So. 3d 1093, 1102 (Fla. 2010) (“The giving of a curative instruction will often obviate the necessity of a mistrial.” (quoting *Graham v. State*, 479 So. 2d 824, 825 (Fla. 2d DCA 1985))); *Clark v. State*, 881 So. 2d 724, 727 n.2 (Fla. 1st DCA 2004) (“[O]ne isolated comment does not entitle a defendant to a mistrial, especially when an appropriate curative instruction is given by a trial judge.”).

## B.

McArthur next argues that the statements she made to investigators during the October 19 interview were admitted in violation of her *Miranda* rights. “The Supreme Court determined in *Miranda v. Arizona* that the State ‘may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of

procedural safeguards effective to secure the privilege against self-incrimination.” *Hall v. State*, 248 So. 3d 1227, 1229–30 (Fla. 1st DCA 2018) (quoting *Miranda v. Arizona*, 384 U.S. 436, 444 (1966)).

In this instance, McArthur was not interrogated prior to being advised of her *Miranda* rights. Rather, a conversation between McArthur and the two investigators progressed from casual talk into an interrogation. Only after McArthur was read her *Miranda* rights and she had waived them in writing did the conversation shift to covering potentially incriminating questions about the investigators’ ongoing investigation. *See Wilson v. State*, 242 So. 3d 484, 492 (Fla. 2d DCA 2018) (“[A]n interrogation takes place ‘when a state agent asks questions or engages in actions that a reasonable person would conclude are intended to lead to an incriminating response.’” (quoting *State v. McAdams*, 193 So. 3d 824, 833 (Fla. 2016))).

As to statements McArthur made after waiving her *Miranda* rights, the trial court correctly found that the State met its burden of proving that McArthur had waived her rights. “A defendant may waive so-called *Miranda* rights, but only if the defendant is informed of those rights and ‘the waiver is made voluntarily, knowingly and intelligently.’” *Hall*, 248 So. 3d at 1230 (quoting *Miranda*, 384 U.S. at 444). This is not a case where *Miranda* warnings were minimized or improperly administered as to lull McArthur into not paying attention to her rights. *See Ross v. State*, 45 So. 3d 403, 428 (Fla. 2010) (concluding that the defendant’s *Miranda* rights were minimized and downplayed where a detective asserted the rights were only a matter of procedure, lulled the defendant into a false sense of security, and did not stop interrogating the defendant when he indicated a hesitancy in talking). In fact, McArthur, who had previously studied criminal justice in college and had worked in the sheriff’s office as a crime scene technician, indeed exercised her *Miranda* rights by seeking a lawyer about an hour into this interrogation.

### C.

McArthur next argues that the application law enforcement used to obtain her cell phone records was constitutionally and statutorily insufficient. The State obtained McArthur’s cell records

by filing an application and affidavit for an order for disclosure under § 934.23. “A court may issue the order . . . only if the ‘officer offers specific and articulable facts showing that there are reasonable grounds to believe the contents of a wire or electronic communication or the records of other information sought are relevant and material to an ongoing criminal investigation.’” *Mitchell v. State*, 25 So. 3d 632, 634 (Fla. 4th DCA 2009) (quoting § 934.23(5), Fla. Stat.). McArthur claims that the application in this case deficiently listed only a cell phone number without detailing that the number was Appellant’s number. When read as a whole, however, the application makes clear that the affiant is referring to McArthur and her cell phone. We find no error here.

D.

McArthur’s final argument relates to the victim’s text messages and statements that she believes were inadmissible hearsay. But this evidence was not offered to prove the truth of the matters asserted but was relevant to establishing a timeline, motive, and intent. *See, e.g., Jean-Philippe v. State*, 123 So. 3d 1071, 1079 (Fla. 2013) (noting that a statement may be offered to prove a variety of things besides its truth). The trial court did not abuse its discretion by allowing these into evidence or by failing to give a limiting instruction explaining why this evidence was offered.

III.

The judgment and sentence are AFFIRMED.

ROWE and LONG, JJ., concur.

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***Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.***

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Michael Ufferman of the Michael Ufferman Law Firm, P.A.,  
Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Daren L. Shippy, Assistant  
Attorney General, Tallahassee, for Appellee.

# Supreme Court of Florida

FRIDAY, AUGUST 20, 2021

**CASE NO.: SC21-741**

Lower Tribunal No(s).:

1D19-3491;

172017CF005844XXXAXX

ASHLEY MCARTHUR

vs. STATE OF FLORIDA

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Petitioner(s)

Respondent(s)

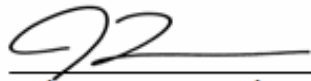
This cause having heretofore been submitted to the Court on jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Article V, Section 3(b), Florida Constitution, and the Court having determined that it should decline to accept jurisdiction, it is ordered that the petition for review is denied.

No motion for rehearing will be entertained by the Court. See Fla. R. App. P. 9.330(d)(2).

POLSTON, LABARGA, LAWSON, MUÑIZ, and GROSSHANS, JJ.,  
concur.

A True Copy

Test:



John A. Tomasino

Clerk, Supreme Court



**CASE NO.:** SC21-741

Page Two

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Served:

DAREN L. SHIPPY

MICHAEL R. UFFERMAN

HON. KRISTINA SAMUELS, CLERK

HON. JAN SHACKELFORD, JUDGE

HON. PAM CHILDERS, CLERK

Filing # 82589220 E-Filed 12/27/2018 11:41:43 AM

**IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA  
CRIMINAL DIVISION**

STATE OF FLORIDA  
Plaintiff

v.

CASE NO. 2017 CF 5844 (A)  
DIVISION: E/SHACKELFORD

ASHLEY BRITT MCARTHUR  
Defendant

**MOTION TO SUPPRESS STATEMENTS MRS. MCARTHUR MADE  
TO DET. GHIGLIOTTY AND DET. WILHITE ON OCTOBER 19, 2017**

COMES NOW Defendant, Ashley Britt McArthur, by and through her undersigned attorney and pursuant to Florida Rule of Criminal Procedure 3.190(h), the Fifth Amendment to the United States Constitution and Article 1 Section 9 of the Florida Constitution, and hereby moves this Honorable Court to suppress statements made by Mrs. McArthur and as grounds, therefore, states the following:

1. Mrs. McArthur has been indicted on one count of violation of Section 782.04 and Section 775.087, Florida Statutes.
2. On or about October 19, 2017, Det. Ghigliotty called Mrs. McArthur and told her she could come get her telephone which was being stored at the police station.
3. Mrs. McArthur came to the police station to retrieve her phone on October 19, 2017.
4. Once at the police station, Mrs. McArthur was directed to a small interrogation room. The room had 3 chairs, a table and no windows.
5. After Mrs. McArthur entered the interrogation room, law enforcement officers closed the door behind her.

6. Mrs. McArthur sat in the interrogation room by herself, with the door closed, for approximately five minutes.
7. Officer Chad Willhite and Officer Richard Ghigliotty then entered the interrogation room.
8. They closed the door behind them.
9. Both officers sat within approximately two to three feet of Mrs. McArthur.
10. The officers positioned themselves between Mrs. McArthur and the door.
11. Officer Ghigliotty began working on some paperwork at the table.
12. Officer Willhite then initiated a conversation with Mrs. McArthur.
13. Officer Willhite started the conversation with some small talk. The conversation included such things as did Mrs. McArthur get any sleep last night and questions about the non-profit organization for which Mrs. McArthur volunteers.
14. Then there is some brief discussion about Mrs. McArthur's cell phone.
15. Officer Ghigliotty then asked how Mrs. McArthur has been doing. He also inquires if Mrs. McArthur had talked to "Cass". ("Cass" refers to Cassandra Waller, Taylor Wright's girlfriend.)
16. There then is some conversation about Taylor Wright's ex-husband, Jeff Wright.
17. Officer Ghigliotty then asks if Jeff Wright, Taylor Wright's ex-husband, talked to Mrs. McArthur about Drake. (Drake is Taylor Wright's son.)
18. Officer Ghigliotty then asks Mrs. McArthur if she has heard anything else about Taylor Wright.
19. There was continued discussion about Taylor Wright's background and her disappearance.

20. Officer Ghigliotty then informs Mrs. McArthur that they've come across some things that they're not really sure what to make of it. He added that it could be just something civil or something they had an agreement on.
21. Officer Ghigliotty tells Mrs. McArthur, he is going to ask her about it.
22. Officer Ghigliotty adds that, because they don't know the nature of it, he needs to read "something" to her.
23. Officer Ghigliotty then says, "I'll try to breeze through this real quick."
24. Officer Ghigliotty then reads what appears to be Miranda Rights from a piece of paper. He asks Mrs. McArthur if she understands that.
25. He then slides the piece of paper across the table to Mrs. McArthur. Mrs. McArthur signs the piece of paper.
26. Officer Ghigliotty then begins to question Mrs. McArthur about some bank records they located.
27. The questioning of Mrs. McArthur then continues for well over another hour. The questioning includes telling Mrs. McArthur that she is not telling the officers everything. The officers attack Mrs. McArthur's account of her time line with Taylor Wright. The officers use cell phone tower records to confront Mrs. McArthur.
28. At the same time Officer Ghigliotty and Officer Wilhite were questioning Mrs. McArthur, a search warrant was being executed at 2201 Britt Road.
29. After sitting in the interrogation room for approximately one hour and forty-five minutes and beginning to be interrogated by two law enforcement officers, Mrs. McArthur requested an attorney.
30. After questioning of Mrs. McArthur ended, she was held in the interrogation room

for almost another two hours.

31. Mrs. McArthur was eventually released from the Pensacola Police Department only to be arrested about an hour later.
32. Clearly Officer Ghigliotty called Mrs. McArthur to the police station, not to return her phone, but rather to interrogate her.
33. The officers gave "mid-stream" Miranda warnings and downplayed the significance of the Miranda Rights.
34. The waiver of Mrs. McArthur's rights against self-incrimination was not voluntary, knowingly, or intelligent and the statements were not voluntarily given. The waiver was a product of coercion and/or deception on the part of the officers. The State bears a heavy burden to demonstrate that Mrs. McArthur knowingly and intelligently waived her privilege against self-incrimination and the right to counsel.

WHEREFORE, Mrs. McArthur, prays that this Court will enter an Order suppressing all statements Mrs. McArthur made to Officer Wilhite and Officer Ghigliotty, at the Pensacola Police Department, on October 19, 2017.

\* \* \* \* \*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by e-mail to Bridgette Jensen, Esquire, Assistant State Attorney by e-mail at [bjensen@osa1.org](mailto:bjensen@osa1.org) and [jwright@osa1.org](mailto:jwright@osa1.org) on this the 27<sup>th</sup> day of December, 2018.



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IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA

STATE OF FLORIDA,

vs.

CASE NO: 2017 CF 5844

ASHLEY MCARTHUR,

Defendant

Proceedings held in the above-styled cause before the  
Honorable Jan Shackelford, Circuit Judge, on the 20th day of  
February, 2019, at the M.C. Blanchard Judicial Building, 190  
Governmental Center, Pensacola, Florida 32502.

APPEARANCES:

FOR THE STATE: BRIDGETTE JENSEN, ESQUIRE  
Assistant State Attorney  
190 Governmental Street  
Pensacola, Florida 32502

FOR THE DEFENDANT: BARRY W. BEROSET, ESQUIRE  
417 East Zarragossa Street  
Pensacola, Florida 32502

JOHN C. BEROSET, ESQUIRE  
Beroset Law Firm  
11 East Romana Street  
Pensacola, Florida 32502

ALSO PRESENT: Lewis Walker, Esquire  
Senior Staff Attorney

EMILY O. COOKSEY, RPR  
~~CIRCUIT COURT REPORTER~~

P R O C E E D I N G S

THE COURT: All right. We're here on State of Florida vs. Ashley McArthur. Case number 17CF5844. The assistant state attorney is present. The defense counsel is present. Mr. McArthur is present.

I believe this is the Defendant's motion to suppress.

MR. BARRY BEROSET: That's correct.

THE COURT: Okay. Pause. I want to let you know that I did review the interview. And, in fact, I even went back and watched the first 20 minutes the second time. I think the first five minutes are dead time. That I skimmed through. But I went back -- I watched the entire video and listened. And then I went back last night and watched the 15 minutes or so up until the point that Miranda was read, just so I re-refreshed myself on that.

So having said that, it's your motion, but ...

MS. JENSEN: Well, Judge, the State will have the burden.

THE COURT: So typically the State goes.

Do you have witnesses that you want to call?

MS. JENSEN: I do, Judge. I think for record purposes, we'll need to move the interview into evidence. I don't know if you want --

1 MR. JOHN BEROSET: That's what I wanted to do.

2 MS. JENSEN: -- as a Defense Exhibit --

3 MR. JOHN BEROSET: It doesn't matter. We want  
4 it part of the record. It doesn't matter if it's  
5 Defense's exhibit or State's exhibit.

6 MS. JENSEN: I agree.

7 THE COURT: Let's just make --

8 MS. JENSEN: I think either one of us would  
9 move it in, so it doesn't matter.

10 THE COURT: Let's make it Defense Exhibit No.  
11 1, and it is received without objection.

12 (Defendant's Exhibit No. 1 admitted into  
13 evidence)

14 MS. JENSEN: And the State calls Detective  
15 Ghigliotty.

16 THE COURT: Okay. Do you want to invoke the  
17 rule?

18 MS. JENSEN: He's the only witness.

19 MR. JOHN BEROSET: I was going to say that I  
20 was told he was the only witness here today.

21 (Witness sworn)

22 THE WITNESS: I do.

23 THE COURT: Have a seat. Pull up to the  
24 microphone. State your name and spell your last name,  
25 please.

4

1 THE WITNESS: Richard Ghigliotty,  
2 G-h-i-g-l-i-o-t-t-y.  
3 THE COURT: You may inquire.  
4 WHEREUPON, RICHARD GHIGLIOTTY,  
5 having been first duly sworn, was examined and testified as  
6 follows:  
7 DIRECT EXAMINATION  
8 BY MS. JENSEN:  
9 Q. Where are you employed?  
10 A. Pensacola Police Department.  
11 Q. What do you do for the police department?  
12 A. I'm an investigator with our criminal  
13 investigation division.  
14 Q. How long have you been in law enforcement  
15 total?  
16 A. Approximately four years.  
17 Q. Let me take you back to September, October of  
18 2017. Were you involved in the death investigation of  
19 Taylor Wright?  
20 A. I was.  
21 Q. And before it became a death investigation,  
22 was she a missing person?  
23 A. Yes.  
24 Q. Okay. And were you involved with that  
25 investigation as well?

5

1           A.     Yes.

2           Q.     What date was Taylor Wright reported missing?

3           A.     On September 14th, 2017.

4           Q.     And as part of your investigation, did you

5 speak with Ashley McArthur?

6           A.     I did.

7           Q.     Is this Ashley McArthur seated over here

8 between her two attorneys?

9           A.     It is.

10          Q.     How did Ms. McArthur's name first come up?

11          A.     She was the last known person to ever see the

12 missing Taylor Wright alive.

13          Q.     On what date was that?

14          A.     On September 8th, 2017.

15          Q.     Now we're here on a motion to suppress her

16 statement from October 19th of 2017. Did you participate in

17 that interview?

18          A.     I did.

19          Q.     So I want to talk about those two time frames,

20 September 14th when Taylor is reported missing and

21 October 19th the date of this interview.

22                 In those time frames how many times did you

23 talk to Ashley McArthur, your best guess?

24          A.     Approximately eight times.

25          Q.     Okay. And what were the nature of those

1 conversations, just tell the Court.

2 A. Very cordial. Several of the conversations  
3 she would actually contact me. She would call me and just  
4 kind of inquire about how the case was going and if we had  
5 learned anything.

6 Q. Did you have a conversation with her at her  
7 home?

8 A. I did.

9 Q. Did you have a conversation with her at the  
10 Pensacola Police Department?

11 A. I had two that I can recall.

12 Q. When was the first one?

13 A. The first one, I believe, was on  
14 September 18th, 2017 --

15 Q. Okay. That was at PPD?

16 A. -- at the Pensacola Police Department.

17 Q. Do you remember about how long that interview  
18 was?

19 A. It was two or three hours.

20 Q. Okay.

21 A. Approximately.

22 Q. Okay. The tone, the nature of those  
23 conversations?

24 A. Very cordial. Just inquiring about why we  
25 were where we were at the time.

7

1 Q. All right. So prior to this interview on  
2 October 19th, what was Ashley McArthur's relationship to the  
3 investigation of Taylor Wright? Like, what was her status,  
4 I guess?

5 A. She began as simply -- when I was assigned the  
6 case on the 15th of September, the day following her being  
7 reported, simply just a friend and witness.

8 Q. Okay. Okay.

9 A. As the investigation unfolded and interviews  
10 were conducted and data was recovered, it was learned that  
11 she didn't appear to be entirely truthful about what she had  
12 told us, coupled with some other evidence where she was  
13 depositing checks in the missing person's name and because  
14 of that she became more of a suspect --

15 Q. Okay.

16 A. -- you know, person of interest and later a  
17 suspect.

18 Q. Okay. So she starts as sort of a witness,  
19 friend of the victim -- or friend of the deceased, and then  
20 at some point becomes more of a person of interest?

21 A. Certainly.

22 Q. Okay. Did you ask her to come down to the  
23 police department for this October 19th interview?

24 A. Yes, I did.

25 Q. When did you ask her to come down or what were

1 those circumstances?

2 A. Sure. On October 18th, the day before the  
3 interview, I called her and I had her phone previously to  
4 that when we were trying to access the phone with her  
5 consent but she wasn't able to provide the password. She  
6 had said she couldn't remember it. We weren't able to  
7 access the phone, so I had her come down to get the phone.

8 Q. Okay. And when -- you said you called her on  
9 the 18th?

10 A. Yes, just -- simply just said -- it was the  
11 afternoon of the 18th. And simply said, hey, if you would  
12 like to come and get your phone, I don't know that we can  
13 access it, and she agreed to come down the following  
14 morning.

15 Q. Okay. At about what time?

16 A. About 8:15, 8:30 she drove down to the  
17 Pensacola Police Department.

18 Q. When she came down on the morning of the 19th,  
19 was it your intent to ask her more questions?

20 A. Yes. Yes, it was.

21 Q. All right. And did she, in fact, come down to  
22 the police department on the 19th?

23 A. She did.

24 Q. All right. When she came to get her phone,  
25 did you take her to an interview room?

1           A.     Yes. Yes. I directed her towards an  
2 interview room which -- where we interview everyone.

3           Q.     Okay. And did you interview Ms. McArthur on  
4 the 19th?

5           A.     Yes. The same interview rooms we use all the  
6 time.

7           Q.     Okay. Okay. At any point during the  
8 interview on October 19th, 2017, was Ashley McArthur free to  
9 leave?

10          A.     She was free to leave at any point. She  
11 didn't have to talk to me at all.

12          Q.     Was there ever a point during that interview  
13 when she was not free to leave?

14          A.     Never. In fact, she left after the interview.

15          Q.     Okay. At any point during this interview,  
16 October 19th, 2017, was she handcuffed?

17          A.     No, ma'am.

18          Q.     Did you restrain her freedom or movement in  
19 any way?

20          A.     Certainly not.

21          Q.     Did you yell at her?

22          A.     I did not.

23          Q.     The defense motion alleges in paragraph 27  
24 that the officers attack McArthur's account. Did you attack  
25 Ms. McArthur or her account in any way?

1 A. No, ma'am.

2 Q. Did Chad Wilhite yell at her?

3 A. No, he did not.

4 Q. Did he attack her or her account in any way?

5 A. No.

6 Q. Is it fair to say, and the judge has reviewed  
7 the interview, but it's fair to say you guys did press her  
8 on some inconsistencies in her statements?

9 A. Certainly.

10 Q. Did it ever become aggressive or  
11 confrontational?

12 A. It was never aggressive.

13 Q. Now, the defense motion in paragraph 21 also  
14 alleges that you told Ms. McArthur that you were going to  
15 ask her some questions. What was your recollection of how  
16 it went when you wanted to talk to her about the checks or  
17 the bank accounts?

18 A. So, I just -- we were sitting in the interview  
19 room and I said I was going to ask you some questions if you  
20 have some time if you don't mind, and she agreed.

21 Q. Okay. All right. And I think you said -- I  
22 don't remember. How did Ashley get to the police department  
23 that morning?

24 A. She drove herself.

25 Q. How many interview rooms are there at the

1 Pensacola Police Department?

2 A. Three.

3 Q. All right. Are they all the same size?

4 A. Yes, ma'am.

5 Q. Okay. And is that the same room that you  
6 interviewed her in on September 18th, I think you said,  
7 2017?

8 A. It may have been. They are all right next to  
9 each other. They are all the same size.

10 Q. Okay. And the defense motion also alleges in  
11 paragraph 10 that you -- and was it -- who else was in there  
12 with you?

13 A. It was Detective Wilhite.

14 Q. Did you and -- it alleges that the officers  
15 positioned themselves between Ms. McArthur and the door.  
16 Did you and Detective Wilhite position yourselves between  
17 her and the door?

18 A. No, ma'am.

19 Q. Is that just the only way to sit in there?

20 A. Yes, it is. And there is still -- the closest  
21 person to the door would have actually been Detective  
22 Wilhite and still where he sits in the room, you can still  
23 access the doorhandle and still open the door.

24 Q. So let's talk about October 19th, 2017, this  
25 interview. Did you feel like you had to read Ms. McArthur

1 her Miranda Rights?

2 A. I did not.

3 Q. Why not?

4 A. She wasn't detained. She was not being  
5 interrogated. She was free to leave. She agreed to come  
6 down.

7 Q. Was she in custody?

8 A. She was not at no point. She was never  
9 cuffed.

10 Q. Did you read her Miranda rights any way?

11 A. We did. I did out of an abundance of caution  
12 due to the nature of the case, I read her Miranda.

13 Q. How did you actually read them?

14 A. Just right from a department provided Miranda  
15 form.

16 Q. And did Ms. McArthur indicate she understood  
17 her rights?

18 A. She did.

19 Q. When you read them to her, did you give her  
20 any additional instructions?

21 A. I explained to her if she understood her  
22 rights, if she could just sign. She nodded her head yes  
23 that she understood. And I explained to her, If you want to  
24 read the rights, please just feel free, slide her the form,  
25 and she signed it and that was it.

1 Q. Okay.

2 MR. JOHN BEROSET: No objection.

3 MS. JENSEN: To me entering it?

4 Judge, at this time I will move into evidence  
5 State's Exhibit 1.

6 THE COURT: Received without objection,  
7 State's Exhibit 1.

8 (State's Exhibit No. 1 admitted into evidence)

9 Q. (By Ms. Jensen) Is that your signature on  
10 there?

11 A. It is.

12 Q. And Ms. McArthur's?

13 A. It is.

14 THE COURT: That's the actual rights form that  
15 she signed?

16 THE WITNESS: I believe it's --

17 THE COURT: The acknowledgment that she --

18 THE WITNESS: Yeah, I believe it's a copy.

19 MS. JENSEN: It's a copy, Judge.

20 THE COURT: Oh, okay. That's fine.

21 THE WITNESS: We can give you the original if  
22 you like.

23 THE COURT: That's fine.

24 Q. (By Ms. Jensen) Now, when you read the Miranda  
25 rights, I think it says on the interview you say something

1 to the effect of I'll breeze through this or let me breeze  
2 right through this real quick. Do you remember saying that?

3 A. I did say that.

4 Q. Why did you say that?

5 A. I believe when she had gotten there, she had  
6 mentioned having to do something later in the day so I just  
7 kind of wanted her to understand that we -- I understood  
8 that and I was going to try to get through this as quick as  
9 possible that we weren't just negating things that she  
10 needed to go do later in the day.

11 Q. Okay. Did you read the rights to her in your  
12 normal tone of voice or normal speed?

13 A. Yes, I did.

14 Q. Okay. Were you trying to minimize her Miranda  
15 rights in any way?

16 A. No, ma'am.

17 Q. Now, also on the video it looks like you don't  
18 actually read the rights until about 10 1/2 or 11 minutes  
19 into Ms. McArthur being in the interview room. Why the  
20 delay?

21 A. It's common practice. We -- I wasn't asking  
22 any incriminating questions. It was just small talk. And  
23 once we began or were going to begin the questioning, I  
24 decided to read Miranda, again out of an abundance of  
25 caution. We never felt it was necessary to do that.

1 Q. All right. Did Ms. McArthur eventually ask  
2 for a lawyer?

3 A. She did.

4 Q. Did you cease any further questioning?

5 A. I did.

6 Q. Detective Ghigliotti, are you familiar with  
7 Ashley McArthur's educational background?

8 A. Somewhat, yes.

9 Q. How so?

10 A. I did a public request from Escambia County  
11 Sheriff's Office.

12 Q. Why the sheriff's office?

13 A. She was employed there; Ashley McArthur was.

14 Q. Do you remember when?

15 A. I believe it was in 2006, approximately May to  
16 December, just a ballpark.

17 Q. Do you know what she did for the sheriff's  
18 office?

19 A. I believe she was involved in crime scene.

20 Q. When you did that public records request, were  
21 you also provided information about her education?

22 A. Yes.

23 Q. Okay. What is her education?

24 A. On the public records request that was  
25 provided to me, it indicated that she had, like, an

1 associate's degree and bachelor's degree in criminal  
2 justice.

3 MS. JENSEN: Those are my questions. Thank  
4 you, sir.

5 THE COURT: All right. Mr. Beroset is going  
6 to ask you questions. If they are yes or no, say yes  
7 or no or give a short answer, okay?

8 THE WITNESS: Yes, ma'am.

9 CROSS-EXAMINATION

10 BY MR. JOHN BEROSET:

11 Q. Good afternoon, sir.

12 A. Good afternoon.

13 Q. When you called Ashley McArthur on the 18th of  
14 October, 2017, you told her she was free to come down to the  
15 Pensacola Police Department to get her phone, correct?

16 A. Correct.

17 Q. You did not tell her that you were going to  
18 interview her or question her in any form or fashion,  
19 correct?

20 A. Correct.

21 Q. Now, when Ms. McArthur came down the next  
22 morning on the 19th, she did drive herself there, correct,  
23 y'all didn't go get her?

24 A. Yes.

25 Q. Now, y'all took her to an interrogation room,

1 correct?

2 A. An interview room, yes.

3 Q. That's also where you interrogate suspects,  
4 correct?

5 A. Sir, we interview people, yes.

6 Q. Now, you would agree that when someone's  
7 coming to retrieve property from the Pensacola Police  
8 Department, it is not normal or customary to take them to an  
9 interrogation room, right, just to get their property back?

10 A. It is normal for me -- when we have a cell  
11 phone, which is generally the property that I have access to  
12 upstairs --

13 THE COURT: Yes or no?

14 THE WITNESS: Yes. Yes, it's common for me to  
15 turn over property --

16 THE COURT: Yes or no?

17 Q. (By Mr. John Beroset) That's how you give  
18 people property back is take them into an interrogation  
19 room?

20 A. An interview room upstairs, yes.

21 Q. So if I came down to get my stolen lawnmower  
22 back, you would take me to an interrogation room?

23 A. If I had your stolen lawnmower upstairs in  
24 investigations, yes.

25 Q. The fact of the matter is the real reason that

1 you called her down on the 19th or called her on the 18th  
2 and she came down on the 19th of October is because you  
3 wanted to interrogate her, correct?

4 A. Correct.

5 Q. Because you had -- you and Detective Wilhite  
6 had cell phone towers ready to show her, correct?

7 A. Yes.

8 Q. You had checks ready to show and question her  
9 about, right?

10 A. Yes.

11 Q. So when you called her on the 18th, you lied  
12 to her, correct?

13 A. No.

14 Q. You just said the real reason for having to  
15 come down was to question her?

16 A. Yes.

17 Q. You didn't make any mention of that in the  
18 phone call to her, correct?

19 A. Yes.

20 Q. You told her it was to come and get her phone,  
21 correct?

22 A. Yes.

23 Q. Did y'all even give her her phone back that  
24 day?

25 A. We did not.

1 Q. Also the morning of the 19th, you and  
2 Detective Wilhite knew that a search warrant was being  
3 executed out at the Brick Road Property, correct?

4 A. Yes.

5 Q. Ms. McArthur when she arrives is taken to this  
6 room, she is put in the room, and y'all close the door on  
7 her, correct?

8 A. Yes.

9 Q. She sits in there approximately four or five  
10 minutes by herself, is that fair?

11 A. That's probably accurate.

12 Q. And then at that point you and Officer Wilhite  
13 come into the room, correct?

14 A. Yes.

15 Q. Is it common for when returning pieces of  
16 property to people to have two investigators come in the  
17 room?

18 A. Not always.

19 Q. And when y'all come in the room, y'all shut  
20 the door behind you, correct?

21 A. Yes.

22 Q. Now, I got a little confused on your answer on  
23 direct. Ms. Jensen asked you did y'all sit between her and  
24 the door and I thought you said no, but then subsequently  
25 you said that's the only way to sit in that room. Is that

1 what you said?

2 A. Yes. That was her question was -- her  
3 question was -- the way that you sat was it the only way to  
4 sit in the room, which is yes, but it's still not blocking  
5 the door so . . .

6 Q. So the video that Judge Shackelford will watch  
7 will not show you and Detective Wilhite between Ashley  
8 McArthur and the door?

9 A. It will not show us blocking the door, no.

10 Q. Were you and Detective Wilhite between Ashley  
11 McArthur and the door?

12 A. Yes.

13 Q. Okay. Did you and Detective Wilhite have  
14 firearms on your side?

15 A. I likely did. I'm not sure if Detective  
16 Wilhite did or not.

17 Q. What is your size, sir? How big are you?

18 A. Approximately 5'10" and 190 pounds.

19 Q. What is Detective Wilhite's size at that time?

20 A. Lord, I have no idea.

21 Q. Give us approximately.

22 A. Shorter than me, maybe 5'6" or 7, maybe  
23 300 pounds. I don't -- I don't know exactly.

24 Q. When y'all initially came into the room, y'all  
25 brought with you items that you were going to use to

1 interrogate Ms. McArthur with, correct, those cell phone  
2 towers, bank records, et cetera, correct, y'all brought  
3 those with you when you first came in the room?

4 A. We did bring items to interview, yes.

5 Q. During your time when you came in the room,  
6 you never at any time did you tell Ms. McArthur that she was  
7 free to leave. That is nowhere on the video, correct?

8 A. We did not.

9 Q. And once entering the room it's fair to say  
10 that Detective Wilhite initiates a conversation with  
11 Ms. McArthur?

12 A. He does.

13 Q. He starts it?

14 A. Yes.

15 Q. It's fair to say it starts out as kind of  
16 pleasantries. Did you not -- you didn't sleep last night,  
17 what is Zack up to, referring to her husband, correct?

18 A. Yes.

19 Q. I think there is some conversation about this  
20 organization called Sheep Dog Impact Assistance or something  
21 they volunteer for, correct?

22 A. Yes.

23 Q. At this point when y'all came in the room, you  
24 still -- when you first came in the room, you're talking to  
25 her with these pleasantries. Y'all have not read her her

1 Miranda rights, correct?

2 A. Correct.

3 Q. Y'all then go into questions about a missing  
4 person or a murder investigation prior to Miranda, correct?

5 A. I don't recall speaking about a murder  
6 investigation.

7 Q. Well, you may not have used that word. At  
8 that time -- when you brought her in, you believed you were  
9 investigating a murder, correct?

10 A. Yes.

11 Q. Okay. You started asking her prior to Miranda  
12 if she had had any conversation or heard from Taylor Wright,  
13 correct?

14 A. I don't recall asking her that, but you've  
15 seen the video.

16 Q. You asked her about did she have any  
17 conversations with Cass, referring to Taylor Wright's  
18 girlfriend, Cassandra?

19 A. I do recall that.

20 Q. You asked her if she'd had any conversation  
21 with Jeff Wright, who have been Taylor Wright's exhusband;  
22 correct?

23 A. I do recall that, yes.

24 Q. And this is all before Miranda warnings,  
25 correct?

1 A. Correct.

2 Q. I know -- you testified that you believed that  
3 she was not in custody at that time. Aren't you trained  
4 that if it is a custodial interrogation, you're supposed to  
5 give Miranda warnings to a suspect at the very beginning,  
6 isn't that what y'all are trained?

7 A. No, sir.

8 Q. So you ask her these questions, and the video  
9 shows y'all question or talk to her for about ten minutes  
10 give or take prior to reading her Miranda rights, correct?

11 A. Correct.

12 Q. And the reason -- it's fair to say the reason  
13 that you do all of this pre-questions, how are you doing,  
14 what have you been up to, you're trying to lull her,  
15 correct, into a false sense of security, like this is no big  
16 deal what we're doing here today, right?

17 A. No, sir.

18 Q. Well, why do you do all of that then?

19 A. Simply, we weren't asking her any  
20 incriminating questions. I don't read anyone Miranda when  
21 they first come into an interview room.

22 Q. Practice to wait ten minutes, talk to them ten  
23 minutes and then do it?

24 A. Very common.

25 Q. Okay. But why do you do that?

1 A. Just the way I was taught to do it.

2 Q. You didn't ask why are we -- you were never  
3 taught in your training, why are we waiting to do this?

4 A. No, sir.

5 Q. So at the time you did read her Miranda rights  
6 to her, she had been in the room approximately 20 minutes,  
7 correct?

8 A. That may be -- again, I don't know the exact  
9 time.

10 Q. And when you got ready to read the Miranda  
11 rights to her, you called -- I want to back up.

12 You said it's fair to say, Well, we have come  
13 across something. We're really not sure it's civil in  
14 nature or y'all had some agreement, I want to ask you about  
15 that, kind of that's what you said right before, correct?

16 A. Yes.

17 Q. And then you said, well, I want to read  
18 something to you, correct?

19 A. Correct.

20 Q. All right. You didn't tell Ms. McArthur that  
21 I want to read your Miranda rights to you, correct?

22 A. Correct.

23 Q. You didn't say I want to give you your rights,  
24 correct?

25 A. Correct.

1 Q. You called them "something"?

2 A. Yes.

3 Q. And you had a waiver right there with you  
4 under a stack of other things, correct, or a written  
5 waiver --

6 A. A printed, yes.

7 Q. -- you had brought with you. You didn't have  
8 to go back out and get that, correct?

9 A. Correct.

10 Q. And you made the statement, I'll try to breeze  
11 through these real quick, correct?

12 A. Yes.

13 Q. Again, trying to diminish their importance,  
14 correct?

15 A. No, sir.

16 Q. You said on direct that, well, I know she had  
17 to be somewhere so we are just trying to get her out of  
18 there, right?

19 A. I did not say that. No. I said -- I believe  
20 she had mentioned something about having to do something  
21 later in the day, so I wanted her to understand that I heard  
22 her and I get it, I'll try to get through this as quick as I  
23 can.

24 Q. Try to get through the most important things  
25 real quick, her Miranda Rights?

1 A. The whole discussion.

2 Q. Y'all kept her there for hours?

3 A. Yes.

4 Q. After she asked for an attorney, y'all told  
5 her to sit tight, right?

6 A. I did not.

7 Q. The detective -- it's on video. Did Detective  
8 Wilhite tell her to sit tight after she asked for an  
9 attorney?

10 A. He did.

11 Q. Did y'all keep her in the room for hours after  
12 that?

13 A. I believe it was approximately two hours, but  
14 again I don't know exactly the time.

15 Q. But you were trying to get her out as quick as  
16 possible?

17 A. That's what I said, yes.

18 Q. After you got done reading the rights, you  
19 didn't say to her verbally, do you understand these rights,  
20 Ashley, and are you willing to talk to us? You didn't ask  
21 her that?

22 A. Not verbatim, no, sir.

23 Q. You didn't ask her are you going to waive  
24 these rights, correct?

25 A. I did not, sir.

1 Q. You slide a piece of paper across the table  
2 and slide a pen over to her again; right?

3 A. Yes.

4 Q. Again, trying to diminish their importance.

5 A. That's what you're saying. Is that a question  
6 or no?

7 Q. Is that what you were doing by sliding the  
8 paper over there?

9 A. No, sir, so she could sign it because she  
10 can't sign it when I'm holding it.

11 Q. The questioning after that lasted over an  
12 hour, correct?

13 A. Yes.

14 Q. And now Ms. Jensen mentioned that I said in my  
15 motion you attacked her time line of events, but you didn't  
16 like that word, correct?

17 A. I did not attack. Is that your question?

18 Q. Yeah.

19 A. I did not attack her.

20 Q. Did you, as you said, press her on her time  
21 line of events?

22 A. Yes.

23 Q. Okay. Meaning you didn't believe what she was  
24 telling you?

25 A. Correct.

1 Q. Okay. And when she went through her time  
2 line, you then started confronting her with cell phone tower  
3 records saying she wasn't telling you the truth, correct?

4 A. Correct.

5 Q. At some point she does request an attorney,  
6 correct?

7 A. She does, yes, sir.

8 Q. And at that point, as we just went over, again  
9 y'all didn't tell her she was free to leave, did you?

10 A. No, sir.

11 Q. In fact, you told her to sit tight. Detective  
12 Wilhite told her to sit tight?

13 A. Detective Wilhite did, yes.

14 Q. And y'all kept her in the room for hours?

15 A. Yes.

16 Q. But she was free to leave?

17 A. Yes.

18 Q. I don't understand. If a law enforcement  
19 officer tells me to sit tight, you're telling everybody out  
20 there, we're free to leave?

21 A. Again, I didn't tell her to sit tight.

22 Q. Sir, Detective Wilhite is your partner, so I'm  
23 asking you. When Detective Wilhite tells someone to sit  
24 tight, you're telling everybody out there that they are free  
25 to leave?

1           A.     In the way that he said it, yes. I didn't  
2 feel it was aggressive. I didn't feel that he was giving  
3 her direct orders. Simply, all right, sit tight, we'll be  
4 back.

5           Q.     So any time a law enforcement officer doesn't  
6 say it aggressively, people are free to leave?

7           A.     That's for you and the judge and the courts to  
8 decide.

9           MR. JOHN BEROSET: May I have a moment?

10          THE COURT: Yes.

11          (Pause in proceedings)

12          Q.     (By Mr. John Beroset) Now, you mentioned that  
13 I believe after several hours she did leave, correct?

14          A.     She did.

15          Q.     Within how long after that did y'all arrest  
16 her?

17          A.     Approximately two or three hours. I'm just  
18 ball-parking. I don't know the exact time.

19          Q.     Was y'all's entire conversation with Ashley  
20 McArthur on the 19th of October 2017 recorded?

21          A.     No, sir.

22          Q.     Okay. There was some conversations with her  
23 outside the interview room prior to going in the interview  
24 room?

25          A.     Yes, sir.

1 MR. JOHN BEROSET: One moment, Your Honor.

2 {Pause in proceedings}

3 MR. JOHN BEROSET: No further questions, Your  
4 Honor.

5 THE COURT: Ms. Jensen.

6 REDIRECT EXAMINATION

7 BY MS. JENSEN:

8 Q. What were the conversations before you went in  
9 the interview room?

10 A. As I recall, it was simply just she had come  
11 in and she had mentioned that she had some things to do  
12 later in the day. I said, okay, that's fine. We will try  
13 to get you out of here.

14 Q. Small talk?

15 A. Yeah, certainly. I can assure you she didn't  
16 come to the door and did you kill her? It wasn't anything  
17 like that I can assure you of that.

18 Q. So these interview rooms, do you interview  
19 regular witnesses in those rooms?

20 A. Yes.

21 Q. So it's not just suspects or people of  
22 interest?

23 A. Victims, witnesses.

24 Q. And on September 18th when you talked to  
25 Ms. McArthur, did you take her to the same set of interview

1 rooms?

2 A. Yes.

3 Q. Was that to return any sort of property at  
4 that point?

5 A. No, ma'am.

6 Q. So then on the 19th, you tell her you're going  
7 to return her phone; correct?

8 A. On the 18th is when we set up for the  
9 following, the 19th, yes.

10 Q. So then she comes on the 19th and you go back  
11 to one of those same interview rooms?

12 A. Yes.

13 Q. Did she have to sign some paperwork for that  
14 phone?

15 A. Yes.

16 Q. Is that just a convenient place to handle the  
17 business there?

18 A. Yes. That's where we generally do it. That's  
19 where the phone is being kept. That's where the phones are  
20 generally downloaded, so that's where we retrieve it from.

21 Q. But to be fair, you certainly did want to  
22 question her on the 19th?

23 A. Yes.

24 Q. Why did you end up giving the phone back to  
25 her after the interview?

1 A. Based on how the interview went and --

2 Q. Did you feel like there was more incriminating  
3 information?

4 A. Certainly. Yes.

5 Q. Okay. And that's why you didn't give her  
6 phone back?

7 A. Correct.

8 Q. Now, Mr. Beroset mentioned that a search  
9 warrant was being executed at some property during that  
10 interview, correct?

11 A. Correct.

12 Q. That was the -- what property was that?

13 A. I don't know what time they all started, but  
14 at some point during the interview, there was actually three  
15 search warrants being executed.

16 Q. And at the time Ms. McArthur was at PPD on the  
17 19th, had Taylor's remains been found yet?

18 A. Not yet.

19 Q. Okay. Were they eventually found after  
20 Ms. McArthur was released?

21 A. Yeah, shortly after.

22 Q. Is that why she was arrested two or three  
23 hours later?

24 A. Yes.

25 Q. Now, Mr. Beroset said after she asked for a

1 lawyer, she was told to sit tight in the interview room.

2 What was going on at that time with PPD? What was going on  
3 while she was sitting there?

4 A. Sure. So I can't speak to what everyone else  
5 was doing, but what I was doing being the case agent, I have  
6 three search warrants being executed, right, there are  
7 multiple jurisdictions and agencies assisting with this, so  
8 I'm trying to figure out what's going on with this case that  
9 has been assigned to me. It's my responsibility to make  
10 sure it's being done properly. So I'm touching base with  
11 the individuals out at the search warrants, seeing what's  
12 going on, speaking with some other colleagues on what needs  
13 to happen next.

14 Q. Okay. Then at some point was there a decision  
15 made to seize Ms. McArthur's car?

16 A. Yes.

17 Q. Was that going on in the time frame that she's  
18 in there as well?

19 A. Yes, that was part of the discussion.

20 Q. Okay. Were you going to make arrangements for  
21 her to get a ride from PPD?

22 A. Yes. We had told her we could provide a phone  
23 if she would like to call for a ride, which she did.

24 Q. Again, she left?

25 A. Yes, yes.

1 MS. JENSEN: Those are my questions. Thank  
2 you.

3 THE COURT: All right. Is he free to go?

4 MS. JENSEN: Yes, ma'am.

5 THE COURT: You're free to go. Don't discuss  
6 your testimony. Thank you.

7 THE WITNESS: Thank you, ma'am.

8 THE COURT: Do you have any other testimony or  
9 evidence from the State?

10 MS. JENSEN: No, Your Honor.

11 THE COURT: Defense?

12 MR. JOHN BEROSET: No witnesses and no other  
13 evidence.

14 THE COURT: Mr. Beroset, it's your motion. So  
15 you get to go first and last.

16 MR. JOHN BEROSET: Judge, I think the first  
17 thing we need to address is the issue of whether  
18 Ms. McArthur was in custody for purposes of Miranda  
19 because certainly the State through their questioning  
20 of Detective Ghigliotty has inferred that she was not.  
21 The test is would a reasonable person in Ms. McArthur's  
22 situation feel that they were free to leave at that  
23 time.

24 Here are the, I believe, undisputed facts:  
25 She is taken to an interrogation room. It's a

1 windowless interrogation room. She is put in there and  
2 the door is closed. She is kept in there for several  
3 minutes, and then two officers come in. They close the  
4 door behind them. I think the video clearly shows two  
5 officers, two male officers much bigger than my client  
6 sitting between her and the door. I think that's  
7 clear. I mean, I don't know what, you know, Detective  
8 Ghigliotti is trying to argue otherwise, but it's clear  
9 in the video. It is also clear that they never advise  
10 her that she is free to leave at any time.

11           You heard today that the purpose of calling  
12 her down there was to interrogate her about what  
13 Detective Ghigliotti thought at that time was a murder.  
14 That's what he said. I thought I was interrogating her  
15 about a murder. They come into the room, and they  
16 confront her with cell phone tower records, bank  
17 records. After she does invoke her right to an  
18 attorney, she is ordered to sit tight and kept in the  
19 room for multiple hours. I think any reasonable person  
20 in that situation would have felt like they were not  
21 free to leave, thus, they were in custody for purposes  
22 of Miranda.

23           Now, prior to Miranda being given to  
24 Ms. McArthur, she had been in that room for 20 minutes.  
25 For ten minutes prior to beginning -- her being given

1 her Miranda rights, law enforcement engaged in  
2 conversations with her. Now the conversations started  
3 out as personal stuff about how she was doing, how Zack  
4 was doing, this community service work they do. Then  
5 it clearly at that point turns to what happened to  
6 Taylor Wright, they ask, and I believe if I remember  
7 correctly, and if it's on video, it's part of the  
8 record, had she heard from Taylor. They asked if she  
9 had talked to Cassandra or Cass, who is Taylor Wright's  
10 girlfriend. They asked what conversations, if any, she  
11 had had with Jeff Wright. I also remember prior to  
12 Miranda, they asked her about kind of what Taylor  
13 Wright's lifestyle was, what did she do late at night.  
14 All of this is given and done prior to Miranda for one  
15 reason, it's designed to lull my client or a person  
16 into a false sense of security. This isn't a big deal.  
17 We're just here -- we're friends, we're buddies,  
18 nothing is going to happen to you.

19 The rights when they came up, they weren't  
20 called anything. They were called "something." He  
21 never used the word, Well, I have got to read your  
22 rights to you, the phrase, I've got to read your rights  
23 to you. He never said the word Miranda rights. He  
24 called them "something." He downplayed their  
25 significance by saying, I'll try to breeze through

1       these real quick. Now, he tells you today, I'm trying  
2       to get her out of there because she has got other  
3       things to do.

4               Judge, you've watched the video. There is  
5       zero chance, zero zero chance that is a true statement.  
6       Zero chance. That doesn't even make sense with the  
7       evidence that you have seen on that video. That is all  
8       designed to downplay the significance of the most  
9       importance things that a person who is being questioned  
10      about a crime is entitled to in this country for  
11      decades and decades.

12             Imagine if you were going to a doctor because  
13      you thought you had a serious condition or you were  
14      worried about yourself and the doctor said, I'm going  
15      to breeze through this real quick. Imagine how you  
16      would feel in that situation. It is a design. It is a  
17      plan. It is deception on the part of law enforcement.

18             Following reading her rights, they didn't even  
19      ask her with these rights in mind, do you want to talk  
20      to me. He just slides the paper across the table,  
21      rolls the pen over, casually again, like, Ms. McArthur,  
22      this is no big deal what you are about to do, knowing  
23      that at the time he's doing that he has all of these  
24      documents and all this evidence that he is going to  
25      confront her with. He said I didn't attack her; I

1       pressed her; I pressed her during this interview.

2               Deception is the act of hiding the truth.

3       That's what he was doing. From the moment he called  
4       her on October 18th, that deception started. When the  
5       State wants to introduce a statement given after  
6       Miranda where they say there is a voluntary, knowingly  
7       intelligent waiver, the burden is on them to show it  
8       was, in fact, those things.

9               The waiver in this case, Your Honor, was  
10       detained clearly by deception to Ms. McArthur. The  
11       deception, as I said, started on October 18th and  
12       continued all the way through her signing that piece of  
13       paper.

14              I will give you a case --

15              May I approach, Your Honor?

16              THE COURT: You may.

17              MR. JOHN BEROSET: I'm sure you have seen it  
18       before. This is *Ross vs. State* found at 45 So.3d 403.  
19       It's an extremely long case, so I will not go through  
20       it. The Court may have seen it, but it reiterates many  
21       of the principles that I talked to and just made an  
22       argument about. It talks about midstream Miranda  
23       warnings. It talks about the waiver must be voluntary,  
24       knowingly and intelligently.

25              Based on the evidence that you have heard here

1       today, we don't believe the State has shown that. And  
2       we're asking the Court to suppress the entire statement  
3       that Ms. McArthur gave on October 18th, 2017.

4               THE COURT: Ms. Jensen.

5               MS. JENSEN: Judge, may I remain seated since  
6       I have notes and case law everywhere?

7               Judge, first of all, with all due respect to  
8       Mr. Beroset, I feel like his verbiage and his argument  
9       in his motion are a little overdramatic.

10              He said that Chad Wilhite ordered her to sit  
11      tight. I don't believe that the video shows him  
12      ordering her to do that. She just asked for a lawyer;  
13      sit tight, we will be right back.

14              He says she was attack. I don't think there  
15      is any evidence that she was attacked. His motion says  
16      that they positioned themselves as if they are trying  
17      to block her. Judge, you have seen the interview room,  
18      it's small. And there is a table in there and there is  
19      Ms. McArthur and there are two law enforcement officers  
20      and where are they supposed to sit? They are not in  
21      some huge conference room where there are many options.

22              And then he says, you know, that they tell her  
23      he's going to ask her questions and that is absolutely  
24      not what the video shows. Detective Ghigliotty said, I  
25      want to ask you about, you know, these things that they

1 uncovered if you don't mind if you have time.

2 So the fact that he didn't ask her if she  
3 wants to ask -- excuse me -- answer questions after he  
4 read Miranda, he had already asked her that.

5 This Ross case, I assumed Mr. Beroset would  
6 bring up, but, Judge, that involves a completely and  
7 totally different situation. In that case the law  
8 enforcement officers questioned -- the type of  
9 questioning -- and I'm looking at page 9 -- the type of  
10 questioning was highly confrontational and  
11 accusatorial, lasted for hours, and took place in a  
12 very small room at the station with at least two  
13 officers in the room.

14 This wasn't highly confrontational and  
15 accusatorial. It didn't last forever. I mean, it was  
16 in a small conference room, but that's what PPD has.

17 Also in that situation, I'm looking at page 11  
18 in that case, the administration of the Miranda  
19 warnings were delayed for several hours into custodial  
20 interrogation. In Ms. McArthur's case, first of all,  
21 we don't have a custodial interrogation. We have, you  
22 know, her sitting in the room for 10 to 20 minutes not  
23 being confronted, not being interrogated, simply having  
24 small talk. And it was 20 minutes, we're here, and  
25 this was several hours into custodial interrogation.

1           And then in this Ross case, I think the  
2           officers said it's just a matter of procedure when they  
3           did finally read Miranda, and that is certainly not  
4           what Detective Ghigliotty said. They said it was only  
5           a matter of procedure.

6           And the downplaying of Miranda rights, Judge,  
7           is only a factor if the Miranda rights were tardily  
8           administered. In other words, like, were they four  
9           hours into an interrogation, are they tardily  
10          administered, and then you look at whether they are  
11          downplayed or not.

12          So the State's position, Judge, is first of  
13          all, that the reading of Miranda rights on October 19th  
14          was not even required. Ashley McArthur was not in  
15          custody. She was not being interrogated. She was free  
16          to leave at any time. In fact, she did leave that day.

17          I have a couple of cases, if I may approach?

18          THE COURT: You may approach.

19          MS. JENSEN: Judge, the first case is *Cotton*  
20          *v. State*, which is 901 So.2d 241.

21          MR. JOHN BEROSET: I'm sorry. You gave me two  
22          Johnsons.

23          THE COURT: I have two Cottons.

24          MS. JENSEN: My bad.

25          MR. JOHN BEROSET: It's okay.

1 THE COURT: Let me swap you out.

2 MS. JENSEN: I don't know how to sort on the  
3 copy machine.

4 So in *Cotton*, Judge, 901 So.2d 241 on page 2  
5 on the left-hand paragraph, in this particular  
6 situation it looked at the facts that the Defendant was  
7 not handcuffed or otherwise physically restrained nor  
8 was Ms. McArthur. He was at the station for  
9 approximately nine hours and was not told that he was  
10 free to leave. On page 3 on the right-hand column,  
11 they talk about the fact that the need for Miranda  
12 warnings is only triggered when a person is questioned  
13 by law enforcement officers after being taken into  
14 custody or otherwise deprived of his freedom/her  
15 freedom of action in any significant way, which again  
16 is not what happened here. In determining whether a  
17 suspect is in custody, the ultimate inquiry is simply  
18 whether there is a normal arrest or restraint on  
19 freedom of movement or the degree associated with the  
20 formal arrest -- that is absolutely not what happened  
21 to Ms. McArthur -- where, however, a suspect is not  
22 placed under arrest, voluntarily goes to the police  
23 station and is allowed to leave unhindered after an  
24 interview of Miranda warnings are not required. And  
25 then it also says Miranda warnings are not required

1 simply because the questioning takes place in the  
2 station house or because the questioned person is one  
3 whom the police suspect.

4 On page 4 in that particular case, in the  
5 Cotton case, they said the actions by the police never  
6 explicitly or implicitly suggested that Cotton was in  
7 custody. The fact that he was with police for  
8 approximately nine hours and never told he was free to  
9 leave did not elevate his otherwise consensual  
10 encounter into a formal arrest.

11 In *State vs. Thompson*, which is 193 So.3d 916,  
12 I'm looking on page 3, left-hand paragraph. In that  
13 case the Defendant came to the station voluntarily, as  
14 did Ms. McArthur -- and I know Mr. Beroset wants to  
15 make a big deal about the fact that, you know, they  
16 said come get your phone and they were going to give  
17 her her phone until they uncovered things during the  
18 course of the investigation and they didn't give it  
19 back but, yes, they did talk to her once she got down  
20 there. She still voluntarily came down there. She  
21 could have told them no, I don't want to come down  
22 there. I don't want to get my phone. She could have  
23 sent someone else to get her phone. She did not have  
24 to come down there. She drove herself down there. And  
25 again they started to give her the phone back and

1 questioned her and uncovered more information, and they  
2 did not release her phone.

3 Also in the *Thompson* case on page 3, mere  
4 questioning at the police station does not establish  
5 custody. That Defendant was unrestrained. She was  
6 able to leave at the end of the session even after  
7 making incriminating statements. The tone and content  
8 of the conversation suggesting nothing coercive or  
9 confining. Law enforcement suspicion by itself does  
10 not turn a consensual encounter into a custodial  
11 interrogation.

12 And this is on the right-hand side, second  
13 paragraph, a custodial interrogation is not triggered  
14 just because an officer asked a suspect about criminal  
15 behavior. In that -- I think at the end they are  
16 citing another, which is *State v. Scott*. That is the  
17 third page, the last paragraph at the end.

18 Although the officer did not tell Scott she  
19 was free to leave, nothing indicated that the officer  
20 coerced, threatened, intimidated or touched her during  
21 the interview. The interview took place in a normal  
22 conversational tone.

23 And then on page 4 -- excuse me, right-hand  
24 side, second paragraph from the bottom, simply  
25 confronting a person with incriminating evidence of

1       guilt does not by itself make for a custodial  
2       interrogation.

3               Judge, the State's position is that, number  
4       1, she's not in custody, she's not being interrogated,  
5       she's free to leave, so her Miranda rights were not  
6       required during that interview. But even if for some  
7       reason Your Honor finds in the interview that her  
8       freedom was curtailed or restrained in any way or that  
9       a reasonable person may have felt that they were in  
10      custody, which again, I certainly don't think is the  
11      case, but if the Court found that Detective Ghigliotty  
12      read her her Miranda rights, she signs the form  
13      indicating she understood, they were not read midstream  
14      as the defense motion alleges. They were read 10 1/2  
15      minutes into the conversation, a casual conversation.  
16      They were not minimized. I mean, he did say he was  
17      trying to breeze through them, but he explained. He  
18      just meant -- he's trying -- he knows she has got  
19      things to do, she's been down there before, they've had  
20      a number of conversations. He's trying to, you know,  
21      let her know he's conscious of her time, not that he's  
22      trying to minimize her Miranda rights.

23              Again, Judge, you have -- this is a  
24      40-year-old educated and experienced woman. She worked  
25      at the sheriff's office as a crime scene tech. She had

1 a degree in criminal justice. So I find it hard to  
2 believe that she doesn't know what Miranda warnings  
3 are. She knew what they were. She knowingly,  
4 intelligently, voluntarily waived her rights. She  
5 signed the form and she agreed to answer questions  
6 until she didn't want to answer questions any more and  
7 then she asked for a lawyer.

8 So, Judge, the State's position is that I've  
9 proven by a preponderance of the evidence, number 1,  
10 she wasn't entitled to Miranda, but if you find she  
11 was, she voluntarily, intelligently and knowingly  
12 waived her Miranda rights. And the State is  
13 respectfully asking this Court to deny the defense  
14 motion.

15 THE COURT: Mr. Beroset, you get the last  
16 word.

17 MR. JOHN BEROSET: Thank you, Your Honor.

18 It sounds like the State's argument until the  
19 very end there was they read her Miranda, she signed  
20 the form, that's enough. That is clearly not what the  
21 law is. Yes, they have to read her Miranda rights, but  
22 then they have a heavy burden; the State, that is, to  
23 show that it was a voluntary, knowingly, intelligent  
24 waiver. It's not enough that she just agreed to speak  
25 with them.

1           Now, just quickly looking through the cases,  
2           the *Cotton* case and, Judge, to be honest, I haven't  
3           read this thing in complete detail, but what I see on  
4           page 2 of *Cotton* is the left-hand side, that first full  
5           paragraph, he and other witnesses were permitted to get  
6           a drink, to go to the bathroom, go for a walk or  
7           anything else they wanted to do, albeit with an escort.  
8           I don't see how that can even be compared to the  
9           situation that Ms. McArthur was sitting in in that  
10          room.

11           In looking at the *Thompson* case, again a quick  
12          reading of looking at page 3, it says nothing in our  
13          records indicate that every encounter between  
14          Ms. Thompson and the detective was anything but her  
15          voluntary undertaking. The detective did not coerce,  
16          cagoule, entice, or summon Ms. Thompson to engage in  
17          the interview. Well, let's stop right there. There is  
18          no question that in our case that we're dealing with,  
19          Detective Ghigliotty did call her down to the station  
20          for the purpose of wanting to interview her about a  
21          murder but he did it in a lying fashion. So that's  
22          totally different.

23           And in looking on page 5 of the *Thompson* case,  
24          and, again, I have not read every paragraph of this,  
25          but on the left-hand side, it talks about the detective

1 saying, reminding her she could leave at any time. So  
2 obviously -- that's the page 5, the left-hand column,  
3 the first full paragraph under number 4.

4 Clearly, I don't think either of these cases  
5 are on par with the facts that we have today.

6 Judge, it was deception from the beginning.  
7 It didn't stop. You know, there is no reason for the  
8 actions they took other than to minimize the  
9 significance of Miranda rights. And by doing that, by  
10 creating this deception, you can't then say that she  
11 voluntarily, knowingly, and intelligently waived her  
12 rights, Your Honor.

13 THE COURT: Okay. Thank you.

14 Lewis.

15 We will take a break for a moment. I'll be  
16 back. Remind me when we're done I want to do a  
17 pretrial and catch up on the case, generally speaking.

18 (Pause in proceedings)

19 THE COURT: I'm going -- Lewis Walker, the  
20 staff attorney, is going to be generating a written  
21 order and that will be a more detailed, but I will deny  
22 the motion to suppress.

23 I do want to note a couple of things that I  
24 observed up to the point of the Miranda and that is  
25 this: I think I described approximately the time that

1 I noted was involved, but that there was about five  
2 minutes approximately on video where Ms. McArthur was  
3 in there by herself. And then I thought it was -- let  
4 me see -- at about the 20-minute mark, it could have  
5 been the 15 -- 15- to 20-minute mark, 10 to 15 minutes  
6 of discussion before Miranda was read. And certainly,  
7 Ms. McArthur was in the room with the two officers. I  
8 do think they were positioned in a way -- there were  
9 not many positions in that room -- but positioned in a  
10 way where they were between her and the door. That  
11 initial conversation to the Court seemed very relaxed.

12 The officers were asking her some questions.  
13 She also was volunteering information and interacting  
14 with them. So that initial conversation up to Miranda,  
15 the Court feels, and I think it will probably be  
16 reflected in the order, was certainly not custodial  
17 interrogation at that point. But definitely I just  
18 wanted to note that I feel like there were times that  
19 they were just sitting there and then Ms. McArthur on  
20 her own would say -- make another point on her own. I  
21 just wanted to note that. Obviously the best evidence  
22 is, of course, the recording itself, and that's in  
23 evidence.

24 Let's talk about where we are with the posture  
25 of the case.

1 MS. JENSEN: Judge, this is your favorite  
2 part. So we are hoping that we can try this case in  
3 July. I know. I knew that would be the face that you  
4 made. Here's the problem.

5 THE COURT: Do you have a printout of my  
6 schedule?

7 THE CLERK: No.

8 THE COURT: Do you have a calendar? Hang on a  
9 second. Let me look at the calendar. You can talk  
10 while I'm getting the calendar.

11 MS. JENSEN: Judge, Jeff Wright is the  
12 ex-husband of the deceased in this case, Taylor Wright,  
13 and he is both important to the State and the defense.  
14 I feel like the State absolutely intends on calling  
15 him, but even if I didn't, I think the defense would.  
16 He is currently stationed in Afghanistan.

17 THE COURT: Okay.

18 MS. JENSEN: I have been in contact -- I  
19 shouldn't say I, but my office has been in contact with  
20 him. Judge, because of the nature of his operation  
21 he's -- there is no way he's going to be able to come  
22 back for this trial. He currently leads a team in  
23 Afghanistan. They are engaged in combat operations. I  
24 suggested if we can fly him back for a week for  
25 purposes of this trial, he said that would not be a

1 good thing considering their mission over there. I  
2 also asked if there was some way to do a video type of  
3 conferencing thing and that is just not an option. So  
4 he will be back the end of June.

5 I have my fantastic legal assistant pull the  
6 Court's trial date. Your first -- July 1 and July 8  
7 are your trial weeks in July. That is another problem.

8 THE COURT: Wait a second. Let me confirm  
9 that. I was having trouble reading the clerk's  
10 calendar. You were checking E, not F? I was F for  
11 many years.

12 MR. BARRY BEROSET: You're Division E.

13 THE COURT: Division E for excellence, Mr.  
14 Beroset.

15 MR. BARRY BEROSET: And also for Judge  
16 Blanchard, right?

17 THE COURT: You're the only one that remembers  
18 Judge Blanchard, Mr. Beroset. Of course, the building  
19 is named after him.

20 MR. BARRY BEROSET: That's right, excellence.

21 THE COURT: You had the correct dates, July  
22 1st and July 8th.

23 MS. JENSEN: Here is the other problem, Judge:  
24 The victim's girlfriend, Cassandra Waller, sent us an  
25 e-mail on February 7th and she will be in Alaska and

1 Canada from June 19th to July 12th. She's not  
2 available for those weeks. But you have a civil trial  
3 week, the week of July 22nd, that wondering if perhaps  
4 we could set that date certain and just all be ready to  
5 go.

6 THE COURT: I think the problem -- let me get  
7 Yvonne on the phone. The problem may be I really might  
8 have civil trials that week. I think I remember -- I'm  
9 going to have to check. I had a two-week trial parked  
10 there. And I still probably have five or six left, so  
11 that's --

12 MS. JENSEN: Judge, your trial week after that  
13 is August 26th or September 3rd. The September 3rd  
14 week is a holiday, so I would shoot for August. I  
15 don't want to do a jury trial during a holiday.

16 THE COURT: Once this witness is back from  
17 Afghanistan, is he back?

18 MS. JENSEN: He's back until October. Our  
19 window is July to October.

20 THE COURT: Is the girlfriend -- who is the  
21 more key witness?

22 MS. JENSEN: They both are. I would say him  
23 probably more than her, but she's also -- she's  
24 definitely important for time lines. She's the one  
25 that reported her missing.

1 THE COURT: We're off the record while I talk  
2 to Yvonne.

3 (Off-the-record discussion)

4 THE COURT: Okay. Here are a couple of  
5 things: I have six cases set for July 22.

6 MS. JENSEN: Oh, my gosh.

7 THE COURT: But I have not been through those  
8 cases. They are -- plaintiffs attorneys are  
9 notoriously bad about not calling me and saying their  
10 cases have settled, no matter how many times I ask them  
11 to do it.

12 The tiny glimmer of hope is that one of them  
13 originally was two weeks and one of them left is seven  
14 days. That means that I have a courtroom the week of  
15 July 29th, in addition to July 22nd. So what could  
16 happen is if I got rid of everything except -- if I got  
17 rid of the case that was the biggest, the longest case,  
18 then I might have the week of the 29th available as  
19 long as you tried it the first part of the week and I  
20 was done before Friday. I have some other court stuff  
21 on Friday of that second week. So, in other words, if  
22 the 22nd didn't become available, there might be the  
23 availability of the 29th, if that makes sense.

24 MS. JENSEN: It does.

25 MR. BARRY BEROSET: Of July?

1 THE COURT: Of July.

2 MS. JENSEN: It does.

3 THE COURT: What I can do in the next couple  
4 of days is send everybody an e-mail. As you know I  
5 like to e-mail, and send you a report checking on the  
6 status of the six that are set. What I really need is  
7 for that seven day one to go away and settle. Then you  
8 guys could at least be assured if you didn't get the  
9 week of the 22nd, if I had to try a civil case that  
10 week, I could come in and try y'all the 29th.

11 MS. JENSEN: That will work.

12 THE COURT: As long as I let jury management  
13 know well in advance I need jurors that week too,  
14 they'll work with me.

15 MS. JENSEN: That will work for the State.

16 THE COURT: Everybody on board with that?  
17 Now, if everything else fails, then I guess we will  
18 have to try it in August. But maybe we would at least  
19 get lucky if the biggest case would go away, the seven  
20 day one.

21 MS. JENSEN: Judge, I think what the State  
22 will do, we will just subpoena for the 22nd and 29th  
23 and then August 26th. That way we have absolutely no  
24 witness issues.

25 MR. JOHN BEROSET: 22nd, 29th, and

1 August 26th.

2 THE COURT: I need everybody -- like I said, I  
3 will keep you posted on my end, but I need everybody to  
4 make sure that they will be available, meaning y'all  
5 available.

6 MR. JOHN BEROSET: Right.

7 THE COURT: And then hopefully -- it might be  
8 a lot to think I will be rid of six cases by July 22nd,  
9 although it could happen, but I'm really going to --  
10 because we have that second week -- how long will it  
11 take you to try it?

12 MS. JENSEN: Judge, I think it will take the  
13 majority of the week.

14 THE COURT: You think -- if we pick and go --

15 MS. JENSEN: If we picked Monday and started  
16 the trial Monday, we'll be done by Friday. I think we  
17 can do it.

18 THE COURT: In other words, be done by  
19 Thursday night?

20 MS. JENSEN: Yes, I think we can do that.

21 THE COURT: You have now tried a case with me,  
22 Mr. John Beroset.

23 MR. JOHN BEROSET: Yes, ma'am. I think it's  
24 reasonable. The other case moved much quicker than we  
25 thought. I have never tried one with Ms. Jensen.

1 THE COURT: Ms. Jensen is very organized.

2 MS. JENSEN: The other Mr. Beroset has had  
3 trials with me.

4 THE COURT: Right. Mr. John Beroset has had a  
5 trial with me. I don't know if Mr. Barry Beroset has,  
6 but recently Mr. John Beroset had one with me. Things  
7 tend to move along.

8 All right. Let me follow up and say, what is  
9 left, if anything, that needs to be done from the  
10 State's side? Is there any outstanding FDLE, DNA?  
11 Anything out there?

12 MS. JENSEN: No, ma'am. I know we -- so we  
13 have had a host of depositions the past couple of weeks  
14 all day, all day. And we have had some witnesses that  
15 haven't shown up, but, I mean, they are in the works to  
16 get them reset, so -- that obviously will not be a  
17 problem now that we have a little more time.

18 THE COURT: Okay. Mr. John Beroset or  
19 Mr. Barry Beroset.

20 MR. BARRY BEROSSET: As you know, I was out for  
21 a period of about two-and-a-half months. When I came  
22 back, I immediately set depositions which we began to  
23 follow up on those. There are some that didn't show  
24 up.

25 There's one guy we can't locate that we think

1        may be important, James Hayes; he's sort of a homeless  
2        type of person, but he has a basis, so we're still  
3        looking for him. There is a possibility we will have  
4        some more motions depending upon what we find out with  
5        respect to these cell phone towers. We're going to  
6        look at that. And so we have got a lot of time to  
7        spend.

8                We agree with the continuance. Because when I  
9        did come back and set these depositions, I also had a  
10       major trial set for next week, which we settled, just  
11       last week and another case we settled that was pending.  
12       So, you know, we have been working -- John has been  
13       working on the other case, the RICO case. So we have  
14       not been delayed except I was out a period of time.

15               THE COURT: Okay. Well, a couple of things:  
16       We're still going to get together because it doesn't  
17       matter if I set it two years down the road, there would  
18       be something that came up, so we will not not get  
19       together.

20               But here's what I need from both sides: Ms.  
21       Jensen has already indicated that she's going to get  
22       the ball rolling on subpoenas. Of course, you can't  
23       serve people too early then they lose them or forget  
24       but letting people know the dates -- because there's  
25       probably going to be somebody who has a conflict and

1       you're just going to have to decide. It may be --

2               MS. JENSEN: Perpetuated.

3               THE COURT: Or something. If you say these  
4       two people are absolutely critical but so and so --  
5       then we may have to do something. I don't care what  
6       week we try it. I'm not willing to throw my civil  
7       people out the door because they only have five civil  
8       judges, it's hard to get a trial. I make the  
9       commitment. They get to go, if they have a case to  
10      try.

11              But as far as the week -- as long as I don't  
12      have them bleeding into the second week of the 29th or  
13      there is no civil people the week of the 22nd of July  
14      or August 26th, you can have the first pick. So you  
15      guys are a priority. The only upset of the apple cart  
16      is the civil case.

17              Y'all need to be reaching out and  
18      communicating with all the key players and saying,  
19      these are the dates. And if anybody else has got an  
20      Alaskan trip or an Afghanistan trip or any other trip,  
21      don't make any plans. We need to have -- we will have  
22      to make it work somehow.

23              MS. JENSEN: Sure.

24              THE COURT: Because -- usually these things  
25      sort themselves out. If they don't, somebody may have

1 to be perpetuated.

2 The second thing is I'm also delighted to hear  
3 there is more potential motions out there, and I have  
4 time now for motions. But if you wait to July to file  
5 a motion, I'm not going to have time. So that's why we  
6 need to be getting together is to say, the homeless  
7 person -- I don't know how you find a homeless person,  
8 but -- besides going to the standard places where  
9 people that are homeless.

10 MR. BARRY BEROSET: We have an investigator.

11 THE COURT: Sure. You have got an  
12 investigator. Y'all have a plan. But that's one  
13 issue. If y'all are going to be filing motions, more  
14 motions, I want you to file them so we can hear them  
15 and it's not under the pressure of it's now July 1st  
16 and when are we going to do this. That's why we still  
17 need to get together.

18 I will be seeing Ms. McArthur tomorrow  
19 afternoon at four for sentencing. I can treat this as  
20 her docket day for this case and consider that it's a  
21 joint State and Defense continuance, correct?

22 Everybody is in agreement?

23 MS. JENSEN: That's fine.

24 MR. BARRY BEROSET: Yes.

25 THE COURT: And, Renee, what is my next -- I

1 think April 24th is my next docket day?

2 THE CLERK: Yes, ma'am. April 24th and  
3 May 6th.

4 THE COURT: April 24th at 8:30. Probably any  
5 pretrials -- I try on these kinds of cases to have them  
6 in the courtroom with the Defendant present, so we all  
7 hear what is being said and Ms. McArthur is present.  
8 But I, at some point, may send y'all an e-mail. I will  
9 send you an e-mail in the next couple of days with an  
10 update on the civil status. That's number 1. But at  
11 some point between now and April 24th, do not be  
12 surprised to see an e-mail that says what's the status  
13 of any additional motions, just asking for an update.

14 Ms. McArthur, is it okay if I send it to the  
15 State and Defense and they respond to me?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: I may be asking in the interim for  
18 an update to make sure we're moving along. So that's  
19 where we are on that.

20 If you need me, if anything comes up that is a  
21 potential delayer of the case, bring it to my attention  
22 and I will do what I can. You know, I mean, that's  
23 where we are. Sometimes things come up in different  
24 cases where I try to respond as soon as I know of one.

25 Ms. Jensen, is there anything else from the

1 State's perspective today?

2 MS. JENSEN: No, ma'am.

3 THE COURT: Mr. John Berozet?

4 MR. JOHN BEROSET: Judge, not on this case. I  
5 just want to make sure that you received the packet of  
6 materials that I sent to you this morning for  
7 sentencing tomorrow.

8 THE COURT: Yvonne received an e-mail that had  
9 attachments. Is that what we're talking about?

10 MR. BARRY BEROSET: Character reference and  
11 sentencing memorandum, yes.

12 THE COURT: She received an e-mail with  
13 attachments. I haven't read it, but I will by  
14 tomorrow.

15 MR. JOHN BEROSET: That's fine.

16 THE COURT: Okay.

17 MR. BARRY BEROSET: I don't think I was on the  
18 e-mail list, maybe because John was handling the RICO  
19 case. If you will make sure that I'm on it as well for  
20 pretrials.

21 THE COURT: Absolutely. Because I knew you  
22 weren't, you were tied up in other things --

23 MR. BARRY BEROSET: Right.

24 THE COURT: -- but you're back.

25 MR. BARRY BEROSET: I'm back.

1 THE COURT: You will be on the e-mail chain.  
2 It's not necessarily positive, Mr. Beroset. I tend to  
3 email at midnight. You never know with me.

4 But please whatever motions need to be filed  
5 and please work on alerting your witnesses. These are  
6 the weeks, and they need to be prepared or they need to  
7 let you know so that we have plenty -- maybe it will  
8 turn out that we can do it -- if your first choice is  
9 July 22nd, I'm delighted to do it that week.

10 MS. JENSEN: That would be my first choice.

11 THE COURT: If I have the week available.

12 MR. BARRY BEROSET: I mean, this other case  
13 for next week, we have three trial dates on the  
14 subpoenas.

15 THE COURT: Yes.

16 So, Ms. McArthur, I will see you tomorrow and  
17 after that I may not see you until docket day or we may  
18 come in for a little bit before that. Like I said, in  
19 the meantime, I will be checking in with your attorneys  
20 on things, okay?

21 THE DEFENDANT: (Indicating).

22 THE COURT: Thank you all.

23 (Proceedings concluded)  
24  
25


CERTIFICATE OF REPORTER

STATE OF FLORIDA

COUNTY OF ESCAMBIA

I, EMILY O. COOKSEY, RPR, Official Court Reporter, do hereby certify that the foregoing, being pages numbered 1 through 63, inclusive, is a true and correct transcript of the proceedings held in the case of STATE OF FLORIDA vs. ASHLEY MCARTHUR, Case No. 2017 CF 5844, on the 20th day of February 2019, before the Honorable Jan Shackelford, Circuit Judge, at 190 Governmental Center, Pensacola, Florida.

IN WITNESS WHEREOF, I have hereunto set my hand, this the 11th day of October, 2019.

  
\_\_\_\_\_  
EMILY O. COOKSEY, RPR  
Official Circuit Court Reporter

1					64
2		M A S T E R I N D E X			
3	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
4	RICHARD GHIGLIOTTY	4	16	30	
5		E X H I B I T S			
6	STATE EXHIBITS	MARKED	IN EVIDENCE		
7	1		13		
8		E X H I B I T S			
9	DEFENSE EXHIBITS	MARKED	IN EVIDENCE		
10	1		3		
11					
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1           those phonecalls that were just admitted.

2                   This, on the other hand, is being played.

3           It's an hour and 37 minutes. But what we're going to  
4           do is someone is going to let me know --

5                   MS. JENSEN: Sorry.

6                   THE COURT: That's okay.

7                   Someone is going to let me know when your  
8           lunch is here, hopefully, about 12:45, and we'll just  
9           do what we've been doing, which is take a break. Okay?

10                  The last time. Imagine you're on your sofa at  
11           home. Everybody take a deep breath. Here we go.

12                  You may proceed.

13                  MS. JENSEN: Thank you.

14                  (Recording resumed playing and reported as  
15           heard by the court reporter)

16                  INVESTIGATOR GHIGLIOTTY: Good morning. How  
17           you been doing?

18                  THE DEFENDANT: Good.

19                  INVESTIGATOR GHIGLIOTTY: Did you have a good  
20           night?

21                  THE DEFENDANT: I'm tired.

22                  INVESTIGATOR WILLHITE: Tired. You didn't  
23           sleep good?

24                  THE DEFENDANT: I hadn't been sleeping much  
25           because we've -- because we've (unintelligible) I had a

1 lot going on at the office, so...

2 INVESTIGATOR WILLHITE: Where?

3 INVESTIGATOR GHIGLIOTTY: (Unintelligible).

4 THE DEFENDANT: Well, (unintelligible), but  
5 I'll probably have to go, but we have to move on  
6 (unintelligible).

7 INVESTIGATOR GHIGLIOTTY: What's that?

8 THE DEFENDANT: It's a --

9 INVESTIGATOR WILLHITE: (Unintelligible).

10 THE DEFENDANT: No, it's a nonprofit that does  
11 things for injured first responders, (unintelligible)  
12 volunteering.

13 INVESTIGATOR GHIGLIOTTY: (Unintelligible).

14 THE DEFENDANT: -- and for -- in DC  
15 volunteering to do stuff with the (unintelligible)  
16 Marathon (unintelligible).

17 INVESTIGATOR WILLHITE: Okay. Sounds pretty  
18 close to heart for you guys, because of Zac's injury.

19 THE DEFENDANT: It's a really good  
20 organization. We do it a lot. Like, they send a lot  
21 of disaster recovery teams to -- down to the hurricane  
22 thing.

23 INVESTIGATOR WILLHITE: Uh-huh.

24 THE DEFENDANT: That was started by a Sergeant  
25 Major in the Marine Corps (unintelligible). And a lot

1 of retired police and fire and veterans and stuff help  
2 out with it, but they have a lot of -- we went in 2015  
3 we did the (unintelligible) run in New York.

4 INVESTIGATOR WILLHITE: I think I remember  
5 that. Is that where they ran across the bridge or  
6 something?

7 THE DEFENDANT: Yes.

8 INVESTIGATOR WILLHITE: And all the  
9 firefighter units; is that right?

10 THE DEFENDANT: Uh-huh.

11 INVESTIGATOR WILLHITE: Okay. I remember  
12 that.

13 THE DEFENDANT: And we did that. And they  
14 had, like, the (unintelligible) double amputees that  
15 did the run and (unintelligible) amputees they made,  
16 they were allowed to go, like, first before the rest of  
17 the people so that (unintelligible) to go through --

18 INVESTIGATOR WILLHITE: To run over?

19 THE DEFENDANT: But, you know, what's funny,  
20 like some of those guys are way better than, like,  
21 people with two legs, you know.

22 INVESTIGATOR GHIGLIOTTY: Yeah,  
23 (unintelligible) better than I could (unintelligible.)?

24 INVESTIGATOR WILLHITE: (Unintelligible).

25 So is Zac (unintelligible), I guess?

1 THE DEFENDANT: Yeah, he is.

2 INVESTIGATOR WILLHITE: Okay. What time is  
3 his plane?

4 THE DEFENDANT: Six.

5 INVESTIGATOR WILLHITE: He's boarding soon.

6 THE DEFENDANT: Yeah.

7 INVESTIGATOR WILLHITE: Try and take an early  
8 flight. Just get there.

9 THE DEFENDANT: He flew (unintelligible). He  
10 flew her to Miami and then to DC.

11 INVESTIGATOR WILLHITE: (Unintelligible).

12 INVESTIGATOR GHIGLIOTTY: That is going the  
13 wrong way.

14 THE DEFENDANT: Yeah.

15 INVESTIGATOR GHIGLIOTTY: Huh.

16 THE DEFENDANT: (Unintelligible).

17 INVESTIGATOR GHIGLIOTTY: Here's your phone.  
18 It's in the same condition. If you want to look at it  
19 and make sure it's in the same condition it was when  
20 you left it?

21 THE DEFENDANT: It's a (unintelligible).

22 INVESTIGATOR GHIGLIOTTY: Yeah, I agree, but.

23 So your black iPhone, my signature, we're  
24 returning it back over to you on the 19th. If you'll  
25 sign there.

1                   How you been doing?

2                   THE DEFENDANT: Okay. Just busy.

3                   INVESTIGATOR GHIGLIOTTY: Yeah. Talk to Cas  
4 lately?

5                   THE DEFENDANT: I haven't talked to her  
6 lately. I -- she -- I would text her or message her  
7 every now and then, (unintelligible). She hasn't  
8 (unintelligible).

9                   INVESTIGATOR GHIGLIOTTY: How's she doing?

10                  THE DEFENDANT: She seems okay. She seemed --  
11 she (unintelligible), like she'll say that she's really  
12 sad or she's been crying all day or she's frustrated  
13 or --

14                  INVESTIGATOR GHIGLIOTTY: She still don't know  
15 where (unintelligible).

16                  THE DEFENDANT: Uh-huh. And I asked Zac if he  
17 had heard Taylor (unintelligible), kind of like  
18 (unintelligible), or anything like that. And he said  
19 he hadn't. But, you know, it's like when Jeff was  
20 starting to ask me, you know, what I knew about either  
21 Taylor (unintelligible), like as far as at night, like,  
22 we didn't really go out together like that. You know,  
23 because her -- that circle was a different circle with  
24 people. I don't know.

25                  INVESTIGATOR GHIGLIOTTY: What did he call

1           you?

2           THE DEFENDANT: (Unintelligible).

3           INVESTIGATOR GHIGLIOTTY: What was the  
4           (unintelligible)?

5           THE DEFENDANT: He didn't call, he Facebooked  
6           messed me.

7           INVESTIGATOR GHIGLIOTTY: Oh, okay.

8           THE DEFENDANT: You know, knowing whatever, so  
9           he did not worry too much.

10          INVESTIGATOR GHIGLIOTTY: I was kind of  
11          wondering how he (unintelligible).

12          THE DEFENDANT: No, he (unintelligible)  
13          Facebook me. You know, he said -- and, honestly, I  
14          probably shouldn't have even responded. He said that  
15          too, but it's (unintelligible).

16          INVESTIGATOR GHIGLIOTTY: Sure.

17          THE DEFENDANT: But it's J -- (unintelligible)  
18          and it's not under his name, but it's an announcement  
19          he has put, you know, the story on or whatever,  
20          (unintelligible).

21          INVESTIGATOR GHIGLIOTTY: Did he talk about  
22          Greg and how Greg was doing?

23          THE DEFENDANT: Huh-uh.

24          INVESTIGATOR GHIGLIOTTY: Huh. All right.

25          Anyone else come forward to let you know

1 anything, you know, all his friends heard anything?

2 THE DEFENDANT: I haven't -- I mean, again, I  
3 don't know any of her friends really. I mean, like,  
4 Cas is the only, like, Facebook friend that we have in  
5 common.

6 INVESTIGATOR GHIGLIOTTY: Oh, really?

7 THE DEFENDANT: Yeah. So we have got her  
8 other circle. I don't know, you know. So, I mean,  
9 (unintelligible) Cas would (unintelligible) or  
10 whatever, but other than that, I don't have any, like,  
11 social friends in common.

12 INVESTIGATOR GHIGLIOTTY: Yeah. What was Jeff  
13 saying exactly? Was he concerned or was he --

14 THE DEFENDANT: If you want to grab my phone,  
15 I'll show you.

16 INVESTIGATOR GHIGLIOTTY: That's fine. I  
17 mean, I don't (unintelligible).

18 THE DEFENDANT: He -- he just, you know,  
19 asked, like, how her behavior had been. And that you  
20 know, it seemed out of place for her, but he doesn't  
21 really know that some of the things that he -- that she  
22 wasn't the person he saw when they were together. And  
23 I'm, like, well, that's kind of how we all kind of feel  
24 because we don't know who she really is.

25 And then you hear, like, just, different

1 talks. It's so bizarre. You're thinking  
2 (unintelligible) who she is or is of all this somehow  
3 who she is.

4 INVESTIGATOR GHIGLIOTTY: Yeah. And who  
5 knows. At this point we're kind of at a loss as well.

6 THE DEFENDANT: He did tell me that her dad  
7 had to file some affidavit about him not being the  
8 reason that she was changing the court date.

9 INVESTIGATOR GHIGLIOTTY: Huh. Have you ever  
10 talked to her dad?

11 THE DEFENDANT: Huh-uh. I don't know him. I  
12 know he was saying that apparently at some point Taylor  
13 had tried to change her court date, like she had to do  
14 it because of her dad had to be evacuated.

15 INVESTIGATOR GHIGLIOTTY: Evacuated from  
16 where?

17 INVESTIGATOR WILLHITE: What court? The court  
18 over in Okaloosa that had (unintelligible)?

19 THE DEFENDANT: I guess --

20 INVESTIGATOR WILLHITE: That's what she  
21 missed?

22 THE DEFENDANT: Right.

23 INVESTIGATOR WILLHITE: Okay.

24 THE DEFENDANT: And she had to change it  
25 because he had to be evacuated. Well, she told Cas and

1 I that he was deceased, but...

2 INVESTIGATOR GHIGLIOTTY: In other words, like  
3 one of those situations where she had like a -- like a  
4 biological father, like some other dad raised her?

5 THE DEFENDANT: No.

6 INVESTIGATOR GHIGLIOTTY: (Unintelligible)?

7 THE DEFENDANT: Not that I know of. My  
8 understanding is the only person she had that, like,  
9 raised her is the lady that's in Tallahassee.

10 INVESTIGATOR GHIGLIOTTY: Is that an auntie?

11 THE DEFENDANT: I think so.

12 And then she has a biological mother that I  
13 would hope is deceased.

14 INVESTIGATOR GHIGLIOTTY: Good Lord.

15 THE DEFENDANT: And then her biological father  
16 who was somewhere in south Florida, and that's the one  
17 that she told Cas and I that was deceased. And then  
18 apparently she told the courts that she had to change  
19 the court date because he had to be evacuated from one  
20 of those hurricanes or something.

21 INVESTIGATOR GHIGLIOTTY: She's went around  
22 telling people that she (unintelligible)?

23 THE DEFENDANT: Well, see, of course we didn't  
24 know that because of the court record or whatever.

25 INVESTIGATOR GHIGLIOTTY: Right.

1 THE DEFENDANT: But Jeff had said that he had  
2 to sign some affidavit for the court saying that he was  
3 (unintelligible) he needed to evacuate, I guess.

4 INVESTIGATOR GHIGLIOTTY: I guess, was that  
5 like the hurricane --

6 THE DEFENDANT: Uh-huh.

7 INVESTIGATOR GHIGLIOTTY: -- or was it the old  
8 stuff?

9 THE DEFENDANT: No. Apparently during one of  
10 these hurricanes. I don't know if it was Irma or --

11 INVESTIGATOR WILLHITE: You're talking about  
12 recently hitting out of Miami.

13 INVESTIGATOR GHIGLIOTTY: Miami got hit pretty  
14 bad?

15 INVESTIGATOR WILLHITE: (Unintelligible).

16 INVESTIGATOR GHIGLIOTTY: (Unintelligible).  
17 Sounds like a big mess.

18 THE DEFENDANT: I don't even understand it.  
19 But (unintelligible). And I guess it kind of gets  
20 rougher when he came to the court, according to  
21 Jessica, (unintelligible).

22 INVESTIGATOR GHIGLIOTTY: But did she ever  
23 come forward and say, like, hey, I was just playing  
24 around or, you know, I don't know why I told you that,  
25 but, you know --

1 THE DEFENDANT: You mean, me?

2 INVESTIGATOR GHIGLIOTTY: Yeah. And then now  
3 he's actually alive?

4 THE DEFENDANT: No. I didn't know he was  
5 alive until after she left. Like, Cas found out -- I  
6 mean, we were kind of under the impression that he was  
7 deceased until she started talking to different people  
8 or whatever, and he was alive in South Florida.

9 INVESTIGATOR GHIGLIOTTY: I guess this is  
10 probably a question for Nancy, I never asked her, but  
11 is she married? Because she's talking about, like,  
12 Nancy's husband?

13 THE DEFENDANT: Uh-huh.

14 INVESTIGATOR GHIGLIOTTY: Anything like that?

15 Huh. Well, and like I said, we've been  
16 looking into it. We try to look into everyone,  
17 obviously. I'm sure you can imagine -- well, I know,  
18 you do have law enforcement. We got to look at  
19 everyone so we've been doing it. And, you know, we've  
20 turned up some things that we don't -- we don't really  
21 know what to think at this point.

22 THE DEFENDANT: Right.

23 INVESTIGATOR GHIGLIOTTY: So we don't know who  
24 is involved with what. Right. Like I said before, I  
25 don't know Jeff's involvement. Obviously, there's

1       probably some bitter feelings over the money issue and  
2       the child and Drake and all. I'm sure, you know, she  
3       loved Greg -- or loves Greg?

4               THE DEFENDANT: Right.

5               INVESTIGATOR GHIGLIOTTY: But, obviously, Jeff  
6       has probably no intent on letting Taylor have that  
7       child; right?

8               THE DEFENDANT: (Unintelligible). I don't  
9       think she needs him right now.

10              INVESTIGATOR GHIGLIOTTY: You know, well,  
11       (unintelligible) so we've come across, like I said,  
12       several things. We don't know whether it's civil or  
13       something y'all had agreements on or whatever, so I was  
14       going to ask you about those, if you don't mind, if you  
15       have some time.

16              THE DEFENDANT: Okay.

17              INVESTIGATOR GHIGLIOTTY: But with that,  
18       because we don't know the nature of it --

19              THE DEFENDANT: Yeah.

20              INVESTIGATOR GHIGLIOTTY: -- I need you to  
21       read something.

22              THE DEFENDANT: Okay.

23              INVESTIGATOR GHIGLIOTTY: Cool?

24              THE DEFENDANT: Uh-huh.

25              INVESTIGATOR GHIGLIOTTY: Okay. I'll read

1 through this real quick. If it turns out it's just  
2 civil issues and that's not what we deal with.

3 So before we ask you any questions, you must  
4 understand your rights.

5 You have the right to remain silent. Anything  
6 you say can be used against you in court. You have the  
7 right to talk to a lawyer for advice before we ask you  
8 any questions. You have a right to have a lawyer with  
9 you during questioning. If you cannot afford a lawyer,  
10 one will be appointed for you before questioning, if  
11 you wish.

12 If you decide to answer questions now without  
13 a lawyer present, you have the right to stop answering  
14 any time. Do you understand that?

15 THE DEFENDANT: (No audible response)

16 INVESTIGATOR GHIGLIOTTY: (Unintelligible) it  
17 read it, you're welcome to?

18 Okay?

19 INVESTIGATOR WILLHITE: We think y'all may be  
20 business partners in something, that's why we're asking  
21 to make sure.

22 THE DEFENDANT: Right.

23 INVESTIGATOR WILLHITE: So what I was saying  
24 when we were doing our investigation, we looked into  
25 everyone, financially we have to. We just got done

Recorded in Public Records 9/9/2019 2:16 PM OR Book 8160 Page 1228,  
Instrument #2019078658, Pam Childers Clerk of the Circuit Court Escambia  
County, FL

PAM CHILDERS  
CLERK OF THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA  
ESCAMBIA COUNTY

2019 SEP -3 A 11: 54

STATE OF FLORIDA,

FILED & RECORDED

Case No.: 2017 CF 005844 A  
DIV: E

vs.

ASHLEY BRITT MCARTHUR,  
DEFENDANT

ORDER OF JUDGMENT AND SENTENCE

This cause, coming on this day to be heard before the Court, and the Defendant being now present with Counsel,  
having entered a Plea(s) as follows:

Guilty as to Count(s): \_\_\_\_\_

Not Guilty as to Count(s): 1

No Contest as to Count(s): \_\_\_\_\_

The State Attorney announced Nolle Prosequi as to Count(s): \_\_\_\_\_

☐ A Jury of your peers having found you: Guilty as charged.

The Court hereby:

Adjudicates Defendant Guilty as to Count(s): 1

Withholds Adjudication as to Count(s): \_\_\_\_\_

Finds Defendant Not Guilty as to Count(s): \_\_\_\_\_

Finds as to Count(s): \_\_\_\_\_

Count	Statute	Statute Description	Level	Degree
1	782.04 and 775.087	FIRST DEGREE PREMEDITATED MURDER WITH A FIREARM	F	Capital

BK: 8160 PG: 1229











McArthur A

STATE OF FLORIDA

V.

ASHLEY BRITT MCARTHUR  
DEFENDANT.

2017 CF 005844 A  
CASE NUMBERS

FINGERPRINTS OF DEFENDANT				
1. RIGHT THUMB	2. RIGHT INDEX	3. RIGHT MIDDLE	4. RIGHT RING	5. RIGHT LITTLE
				
1. LEFT THUMB	2. LEFT INDEX	3. LEFT MIDDLE	4. LEFT RING	5. LEFT LITTLE
				

FINGERPRINTS TAKEN BY:

  
NAME



TITLE

I HEREBY CERTIFY that the above and foregoing are the fingerprints of the defendant,

ASHLEY BRITT MCARTHUR

and that they were placed thereon by the defendant in my presence in open court this date.

DONE AND ORDERED in open court in ESCAMBIA County, Florida, this

30<sup>TH</sup> day of AUGUST, 2019

  
Judge

BK: 8160 PG: 1230

Under Authority granted to the Court by Florida law, it is ORDERED and ADJUDGED that:

The following Provisions apply as to Count(s): 1

- ☐ Habitual Felony Offender (F.S. 775.084(4)(a))
- ☐ Habitual Violent Felony Offender:
  - \_\_\_\_\_ Mandatory minimum imprisonment (F.S. 775.084(4)(b))
- ☐ Three-time Habitual Violent Felony Offender:
  - \_\_\_\_\_ Mandatory minimum imprisonment (F.S. 775.084(4)(c))
- ☐ Violent Career Criminal:
  - \_\_\_\_\_ Mandatory minimum imprisonment (F.S. 775.084(4)(d))
- ☐ Dangerous Sexual Felony Offender
  - \_\_\_\_\_ Mandatory minimum imprisonment (F.S. 794.0115(2))
- ☐ Prison Release Reoffender (F.S. 775.082(9))
- ☒ Firearm:
  - ☐ 3 Year Minimum (F.S. 775.087(2))
  - ☐ Possession: 10 Year Minimum (F.S. 775.087(2)(a)1)
  - ☐ Discharge: 20 Year Minimum (F.S. 775.087(2)(a)2)
  - ☒ Death or Great Bodily Harm: 25 Year Minimum (F.S. 775.087(2)(a)3)
- ☐ Drug Trafficking:
  - \_\_\_\_\_ Mandatory minimum imprisonment (F.S. 893.13(1)(c)1)
- ☐ Controlled Substance within 1,000 Feet of a School: 3 Year Minimum (F.S. 893.13(1)(c)1)
- ☐ Assault or Battery on Person 65 years of age or older: 3 Year Minimum (F.S. 748.08(1))
- ☐ DUI / Manslaughter: 3 Year Minimum (F.S. 319.193(3))
- ☐ Sexual Predator (F.S. 775.21)
- ☐ Must register as a Sexual Offender (F.S. 943.0435)
- ☐ Criminal Gang Activity
- ☐ Youthful Offender Program (F.S. Ch. 958)
- ☐ \_\_\_\_\_

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As to COUNT 1, the Defendant is sentenced as follows:

**PRISON / JAIL:**

- ☒ Serve Life in ☒ State Prison ☐ County Jail
- ☒ Credit for time served: 327 Days
- ☒ Time to be ☐ Consecutive ☒ Concurrent with any other sentence serving
- ☐ \_\_\_\_\_ days Suspended
- ☐ Work Release **Court Ordered**
- ☐ Report to Court on \_\_\_\_\_, at \_\_\_\_\_ to begin your sentence
- ☐ Remanded to Custody
- ☐ To be followed by ☐ Community Control ☐ Probation

**COMMUNITY CONTROL / PROBATION:**

- ☐ Serve \_\_\_\_\_ Year, \_\_\_\_\_ Month(s) Community Control ☐ to be followed by Probation
- ☐ Serve \_\_\_\_\_ Year, \_\_\_\_\_ Month(s) Probation
- ☐ Time to be ☐ Consecutive ☐ Concurrent with Count \_\_\_\_\_
- ☐ Pay \$\_\_\_\_\_ monthly for Cost of Supervision to Community Corrections ☐ Waived
- ☐ Standard conditions of supervision imposed
- ☐ Possible early termination after \_\_\_\_\_ months
- ☐ State **does** oppose early termination of supervision
- ☐ Report to Probation **upon release from custody**

**COMMUNITY SERVICE:**

- ☐ You shall complete \_\_\_\_\_ hours of Community Service Work
- ☐ Complete \_\_\_\_\_ hours of Community Service Work per month
- ☐ Complete all hours within the first \_\_\_\_\_ of Supervision
- ☐ Begin Community Service Work within \_\_\_\_\_ of starting Supervision
- ☐ You may buy out \_\_\_\_\_ hours of Community Service Work at the rate of \$\_\_\_\_\_ per hour
- ☐ You qualify to perform Community Service Work hours in lieu of paying court ordered court costs and fines at the rate of \$\_\_\_\_\_ per hour

**FINES:**

- ☐ \$\_\_\_\_\_ Fine

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**The Defendant shall pay the following Court Costs:**

- ☒ **\$518** Mandatory Felony Court Costs  
(F.S. 938.01, 938.03, 938.05, 938.06, 938.15, 938.19, 938.27, 939.185, 775.083(2),  
Escambia County Ord 34-7 and 34-9)
- ☐ **\$273** Mandatory Misdemeanor Court Costs  
(F.S. 938.01, 938.03, 938.05, 938.06, 938.15, 938.19, 938.27, 939.185, 775.083(2),  
Escambia County Ord 34-7 and 34-9)
- ☐ **\$686** Felony DUI Court Costs  
(F.S. 938.01, 938.03, 938.05, 938.06, 938.07, 938.13, 938.15, 938.19, 938.27, 939.185,  
775.083(2), 318.18(17), 318.18(18), Escambia County Ord 34-7 and 34-9)
- ☐ **\$653** Felony DUI Court Costs  
(F.S. 938.01, 938.03, 938.05, 938.06, 938.07, 938.13, 938.15, 938.19, 938.27, 939.185,  
775.083(2), Escambia County Ord 34-7 and 34-9)
- ☐ **\$456** Misdemeanor DUI Court Costs  
(F.S. 938.01, 938.03, 938.05, 938.06, 938.07, 938.13, 938.15, 938.19, 938.27,  
939.185, 775.083(2), 318.18(17), 318.18(18), Escambia County Ord 34-7 and 34-9)
- ☐ **\$201** Domestic Violence Trust Fund (F.S. 938.08)
- ☐ **\$151** Rape Crisis Trust Fund (F.S. 938.085)
- ☐ **\$151** Crimes against Minors (F.S. 938.10)
- ☐ **\$15** Misdemeanor Crimes Involving Drugs/Alcohol (F.S. 938.13)
- ☐ **\$5,000** Prostitution (F.S. 796.07(6))
- ☐ **\$65** Reckless Driving / Racing on Highway (F.S. 318.18(20))
- ☐ \$\_\_\_\_\_ County Drug Abuse Trust Fund (F.S. 938.21)
- ☐ \$\_\_\_\_\_ Additional Costs of Prosecution (F.S. 938.27)
- ☐ **\$50** Public Defender Application (F.S. 27.52)
- ☐ \$\_\_\_\_\_ for legal assistance (F.S. 938.29)
- ☐ **\$100** FDLE (F.S. 938.055)
- ☐ **\$30** State Facility Surcharge (F.S. 318.18)
- ☐ **\$5** EMS Trust Fund (F.S. 316.192/316.061)
- ☐ **\$3** State Radio (F.S. 318.18(17))
- ☐ \$\_\_\_\_\_ Surcharge on all fines (F.S. 938.04)
- ☐ \$\_\_\_\_\_ Cost of Investigation to \_\_\_\_\_ (F.S. 938.27)
- ☐ \$\_\_\_\_\_

**Court Costs and Fines shall be paid as follows:**

- ☐ Enter into a Payment Plan with the Clerk of Court within \_\_\_\_\_ days of  
☐ Sentencing ☐ Release from custody
- ☐ Pay \_\_\_\_\_ by \_\_\_\_\_, pay another \_\_\_\_\_ by \_\_\_\_\_, pay balance by \_\_\_\_\_
- ☐ You must pay all Court Costs and Fines or enter into a Payment Plan with the Clerk of Court  
within 3 business days of the day of sentencing; if you fail to do so you must appear in court  
on \_\_\_\_\_ at \_\_\_\_\_.
- ☐ All financial obligations to be paid in equal monthly installments to begin within \_\_\_\_\_

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**The Defendant shall comply with the following Special Conditions:**

- ☐ Evaluation: Must obtain a/an **Alcohol** evaluation \_\_\_\_\_
- ☐ Counseling: Complete **Alcohol** counseling
- ☐ Treatment: Must begin any treatment deemed necessary by **alcohol** evaluation \_\_\_\_\_
- ☐ Attend all Counseling sessions
- ☐ Must successfully complete all recommended Counseling ☐ including aftercare
- ☐ Complete Shoplifter's Alternative class
- ☐ DVIP: Complete a Domestic Violence Intervention Program
- ☐ May not **consume** alcohol or drugs to include spice, bath salts, inhalants or any controlled substances not suitable for human consumption without a prescription
- ☐ Provide Probation Officer with prescriptions within \_\_\_\_\_ days and within \_\_\_\_\_ days of any new prescription thereafter
- ☐ Take prescriptions in prescribed dosages
- ☐ Alcohol/Drug Testing: Conduct testing **randomly** at your expense
- ☐ Do not test positive for **alcohol** after \_\_\_\_\_ Days.
- ☐ No Contact: Have no contact with \_\_\_\_\_
- ☐ Stay away from \_\_\_\_\_
- ☐ Restitution: \$ \_\_\_\_\_ to be paid to \_\_\_\_\_
- ☐ Restitution: State Attorney has \_\_\_\_\_ days to file and defense has \_\_\_\_\_ days to object
  - ☐ If defense fails to object, the amount stands
  - ☐ The Court reserves jurisdiction to determine restitution
- ☐ Restitution **may** be paid into the court registry
- ☐ Restitution to be paid joint and severally with co-defendants
- ☐ Seek full time employment or school
- ☐ Perform \_\_\_\_\_ job searches per week if working less than \_\_\_\_\_ hours per week;
  - ☐ begin within \_\_\_\_\_ days of starting Supervision;
  - ☐ must continue until hired
- ☐ Your Driver's License is ☐ Suspended ☐ Revoked for \_\_\_\_\_
- ☐ DUI School: Must complete ☐ 1<sup>st</sup> Offender ☐ Multiple Offender DUI School
- ☐ Interlock \_\_\_\_\_ months with Business Purposes License
- ☐ Impact Panel: Must attend \_\_\_\_\_ Drunk Driving Impact Panel(s)
- ☐ Your vehicle will be impounded for \_\_\_\_\_ days
- ☐ You may not operate a motor vehicle
- ☐ Show proof of a ☐ Valid ☐ Clear driver's license
- ☐ Pay all Court Costs and Fines during Probation
- ☐ Attend two (2) Community Support Group Meetings per week. Obtain written verification of attendance, signed by the leader of the meeting. Provide proof of attendance to Probation Officer in court after 1<sup>st</sup> 2 weeks.
- ☐ Obtain a Home Group within \_\_\_\_\_ days and maintain
- ☐ Obtain a Sponsor within \_\_\_\_\_ and maintain
- ☐ Abide by terms of \_\_\_\_\_

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☐ Other Provisions: \_\_\_\_\_

- ☒ It is determined that you are unable to pay the amounts due and your monetary obligations, consisting of Court Costs and Fees, are reduced to a Civil Judgment, which shall bear interest at the maximum rate allowed by law. (F.S. 55.03)
- ☐ Any remaining balance due on your civil judgment after 90 days from the date of this order will be referred to a collections agency.
- ☐ Your driver's license will be suspended.


If you fail to complete the terms of this order, including payment of all costs, fees and fines, as required, you may be subject to Contempt of Court proceedings.

If a bail bond is currently in effect as to this case and has not been forfeited, that bond is hereby cancelled and the surety is discharged from liability on that bond. A cash bond may be applied towards outstanding financial obligations as allowed per F.S. 903.286.

Any active warrants, capias or summons in this case against this Defendant are hereby quashed.

The Defendant has 30 days from the date of this Order and Judgment in which to file an appeal of the findings and sentence in this matter by filing a Notice of Appeal with the Clerk of Court.

DONE AND ORDERED in open court in Escambia County, Florida, on August 30, 2019.

  
\_\_\_\_\_  
Circuit Court Judge

I hereby certify that a true and correct copy of this document was sent via electronic mail to the State Attorney and Defense Counsel of Record or Defendant by US Mail if there is no Defense Counsel of Record.

PAM CHILDERS, CLERK OF THE CIRCUIT COURT

By:   
Deputy Clerk

