

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY
CASE NO. 1400216CFAES

STATE OF FLORIDA,
Plaintiff,
-VS-
CURTIS JUDSON REEVES,
Defendant.

PROCEEDINGS: PRETRIAL HEARING

BEFORE: HONORABLE PAT SIRACUSA
Circuit Judge

DATE: June 30, 2015

PLACE TAKEN: Pasco County Government Center
38053 Live Oak Avenue
Dade City, FL 33523

REPORTED BY: Maria A. Fortner, RPR
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P-R-O-C-E-E-D-I-N-G-S

THE COURT: Okay. It's 4:00. Now we can start.

We are on the record in State of Florida vs. Curtis Reeves. Case Number 2014-2161.

The State is present and represented by -- well, all of them again, Mr. Loughery is here, Ms. Sumner is here, as is Mr. Garcia.

And the defense is represented by Mr. Escobar and Mr. Michaels. And the defendant is present and out of custody.

We're here on a pretrial that was set all the way back on January 30th, I believe, and it's because we have a trial set for August 24th; and I've reserved three days for an immunity hearing, if necessary, August 3rd through 5th.

So, let's see, things we left off with at our last court date, I believe you told me that on June 14th the deposition was going to be taken of the victim.

Was that accomplished, Mr. Escobar?

MR. ESCOBAR: It was, Your Honor.

THE COURT: Okay. Has the lead detective been deposed yet?

MR. ESCOBAR: Detective Smith was fully

1 deposed. We still have about a half a day of
2 Proctor to go.

3 THE COURT: Okay. So besides Proctor, are
4 there any other main State witnesses that still
5 need to be deposed or are these all ancillary
6 witnesses?

7 MR. ESCOBAR: No, Your Honor. There's still
8 some main witnesses. At least one of the witnesses
9 that was heavily involved in both the downloading
10 of the phone; another witness that was involved in
11 reviewing the video and taking excerpts of the
12 video.

13 So there's still, I would say, very, very,
14 very important witnesses. I would say probably
15 about an additional 10 witnesses, maybe up to 15
16 witnesses.

17 THE COURT: All right. And the ID witnesses
18 that are in the theater, are any of them remaining
19 to be deposed?

20 MR. ESCOBAR: Your Honor, the vast majority of
21 those have been deposed. We may have one or two.
22 I believe two of them I think are out of the state
23 of Florida. Just a handful. We've taken the
24 majority of the eyewitnesses.

25 THE COURT: All right. And then that leaves

1 me with your expert witnesses, Mr. Escobar. Are
2 any of them unavailable for trial on August 24th?

3 MR. ESCOBAR: Your Honor, I think that based
4 upon the state of discovery, as the Court well
5 knows, we filed a motion to continue in this
6 particular case.

7 THE COURT: I know.

8 MR. ESCOBAR: And based upon the amount of
9 volume that still needs to be done, I think that
10 they would be unavailable only because they haven't
11 reviewed some of the stuff that they're going to
12 need to review once we finish discovery.

13 THE COURT: How many of them would be
14 unavailable? How many have you identified?
15 Perhaps that's the easiest way to go.

16 MR. ESCOBAR: Your Honor, I think that we're
17 going to probably have in the form of experts
18 probably anywhere between four to six experts.

19 THE COURT: Okay. Of the four to six experts,
20 are any of them unavailable at this time, or you
21 have not checked?

22 MR. ESCOBAR: I haven't checked, but I would
23 think that based upon what they still need to do
24 and the transcripts that we still need to give
25 them, I would imagine the vast majority of them

1 would be unavailable.

2 THE COURT: All right. Since you've
3 identified them and you know who they are, have you
4 complied with the rule of discovery that indicates
5 that you have to list them within 15 days of your
6 receipt of the State's discovery?

7 MR. ESCOBAR: Your Honor, they're not going to
8 be experts until they determine that, in fact,
9 they've got relevant information that they're going
10 to be testifying about.

11 And as I indicated to the Court very early on,
12 it is impossible for them to render that opinion
13 until all of the relevant evidence has been given
14 to them so that they can make some opinions and
15 then we can determine whether we're going to be
16 using them or not.

17 At this point in time the discovery hasn't
18 been completed, and I would reiterate to the Court
19 through no fault of the Defense and I think through
20 no fault of the prosecution.

21 They've given us every available date that
22 they could give us for depositions. We just don't
23 have enough dates in order to be able to complete
24 the depositions.

25 So at this point in time, no, I think that our

1 obligation to turn over those witnesses to the
2 Government is going to be accomplished once these
3 experts have examined all of the evidence, have
4 rendered an opinion, and then we will comply with
5 discovery.

6 THE COURT: All right. So you're saying that
7 15 months after the shooting you're still not able
8 to determine which experts you're going to use?

9 MR. ESCOBAR: Your Honor, 15 months after the
10 shooting we still don't have some of the forensic
11 examinations that are still being done by the
12 prosecution.

13 THE COURT: Which ones are those?

14 MR. ESCOBAR: It's my understanding that the
15 fingernail scrapings now from Mr. Oulson are being
16 done. There was some discovery that we took that I
17 think that made that probably relevant certainly
18 for the defense and maybe relevant for the
19 prosecution as well. It's my understanding that
20 recently they're in the process of doing that.

21 THE COURT: Fingernail scrapings?

22 MR. ESCOBAR: Of Mr. Oulson.

23 THE COURT: So, then, examination of DNA that
24 may be under the nails of Mr. Oulson who's
25 deceased?

1 MR. ESCOBAR: That's correct.

2 THE COURT: Okay. Anything besides the nail
3 scrapings that is being tested that you're waiting
4 for?

5 MR. ESCOBAR: Your Honor, I'm not sure. I
6 know that Mr. Garcia and I spoke last week
7 concerning things that were still being done. I'm
8 not sure if there's anything else that they are
9 doing at this point in time.

10 THE COURT: Well, I'm going to ask them next.
11 You know how I like to do one side and then the
12 other.

13 MR. ESCOBAR: I'm aware of that.

14 THE COURT: All right. And medical records,
15 have you turned over any medical records for
16 Mr. Reeves, and do you plan on using any medical
17 records for Mr. Reeves in the trial?

18 MR. ESCOBAR: Your Honor, we will be making
19 that determination very, very soon. Again, there
20 are a couple of more experts that we're going to
21 be -- a couple a more witnesses that we're going to
22 be deposing and making that determination.

23 THE COURT: Help me out. Point me to the part
24 in the rule where it says that reciprocal discovery
25 is due by the defense after they've seen everything

1 that the State has, reviewed their case, and
2 decided exactly what their trial strategy is?

3 Because I was reading the rule last night, I
4 read it a lot, I read it over several times trying
5 to figure out why more than 14 months after the
6 State began complying with discovery and you filed
7 your notice, more than 14 months after I sat in
8 this very courtroom and ordered the State to comply
9 early with discovery prior to the bond hearing, why
10 I should be contemplating that you've not yet
11 turned over one single piece of evidence that you
12 plan to use as reciprocal, even though obviously
13 you're going to use medical records.

14 MR. ESCOBAR: Your Honor, we I think from the
15 very beginning of this case have been discussing
16 the process, and I think I've told this Court a
17 dozen times that, in fact, this is the process that
18 we were proceeding under.

19 THE COURT: Okay.

20 MR. ESCOBAR: I can't make someone a witness,
21 and a witness is not going to be relevant in this
22 particular case unless that witness can give me
23 some information that's going to be probative to
24 the jury. And so he can't do that or she can't do
25 that until we've got all of the evidence.

1 As the Court well knows -- and I wasn't
2 prepared today to give you the outline of discovery
3 as we've received it -- but it's not like we got
4 discovery in this case, you know, shortly after
5 January the 13th of 2014.

6 In fact, we got discovery in this case as late
7 as, if the Court remembers, a large volume of
8 discovery on April the 29th of 2015.

9 THE COURT: I understand.

10 MR. ESCOBAR: So we can't have a witness, I
11 can't disclose a witness to the prosecution that
12 hasn't received all of the information necessary
13 for that person to be a witness.

14 And I've been practicing for 32 years, I've
15 done this for 32 years, and every other defense
16 attorney that I know has done it this way for 32
17 years.

18 THE COURT: All right. Well, just dealing
19 with today, it's coming up on 16 months since the
20 events that bring us here -- I'm sorry. It's
21 coming up on 18 months actually since the events
22 that bring us here, and I got a motion from you
23 that indicates that everybody wants me to continue
24 this case.

25 But I'm the one who's accountable to the

1 Supreme Court for my numbers, I'm the one that's
2 accountable for moving cases along, and if all
3 three parties -- and I say all three parties,
4 taking Ms. Oulson's considerations as well -- if
5 all three parties are asking me to continue this, I
6 want to make sure there's good reason for it.

7 Because when we came in here on March 10th of
8 2014, Mr. Michaels made me some promises that if I
9 set the case out four months, that things would be
10 done, that we would get moving, and I took him at
11 his representation because it made sense.

12 I told the State get that discovery to them
13 immediately, get all the police reports, let's
14 start getting depositions done. We came back in July and
15 not a single deposition had been done. Just then it had
16 been set, but not a single deposition had been done.

17 So then I waited until September, again on the
18 promises that discovery would be completed. The
19 State hadn't completed discovery and reports were
20 coming in. I didn't fault you for that, but I had
21 been hoping that I would have been able to set a
22 trial in late fall of last year.

23 And then I got promises that, well, if you
24 give us time, we could be ready. I wanted
25 February, you all were talking late March or April.

1 We came back in January, still a lot of stuff
2 hadn't been done.

3 Again, I'm accountable to the Supreme Court,
4 not you. My expectation for things to get going is
5 based on the promises that I get from you. So I
6 listened to every single pretrial that we've had
7 since the beginning of this case. I didn't listen
8 to the whole bond hearing. I listened to the
9 beginning and the end because I knew that's when
10 we'd be talking about scheduling.

11 And I'm just concerned that every time any
12 period passes before there's a trial, it seems like
13 the foot gets taken off the gas, and I don't want
14 to do that.

15 So if you're asking me to continue it to
16 January of next year, I need to make sure that I've
17 covered everything. So that if I agree with what
18 all three parties are asking me to do, I know that
19 in January it's actually going to be a trial.

20 And right now I've not made the decision to
21 continue the trial. Right now I said it was going
22 to be trial on August 24th. Right now I went over,
23 sitting in this chair in this courthouse with the
24 two sides that were represented in speaking to me,
25 I went over a discovery plan, I went over a

1 scheduling plan for all the discovery line by line,
2 month by month.

3 And I know because I listened to that hearing
4 again where we all talked about what's a reasonable
5 amount of time to accomplish these tasks, and we're
6 about a third of the way forward from where we
7 should be at this time from January 30th.

8 So I'm not blaming you. I'm not blaming
9 Mr. Garcia or the State. What I'm doing is I'm
10 making sure that I hold true to my commitment to
11 the Sixth Judicial Circuit that I move all my cases
12 as expeditiously as I can.

13 So that's why I'm going through it all and I'm
14 going to go through all of it. And if all three
15 parties get up and ask me to continue this case, as
16 long as I have commitments as to what's going to
17 happen, I'll go along with it, if all three parties
18 are asking me to continue this case today.

19 But I am always mindful that the right to a
20 trial is not the right to a perfect trial. The
21 right to a trial is a trial where the protections
22 are accorded to both sides and they're reasonable.
23 I understand it's obviously very important, but
24 perfect is tough. We're not going to get perfect;
25 we're going to get as close as we can, but I'm not

1 going to wait forever to try this case.

2 And since we didn't make any of the goals that
3 we set on January 30th, it's got to be because I
4 wasn't specific enough with everybody. So that's
5 why I'm going to be as specific as possible.

6 I'm going to go over everything absolutely.
7 So I need to know the day that you're going to
8 disclose those witnesses to the State, because
9 you're telling me you need more time.

10 I read in the rule last night, as I poured
11 over it again and again, that I'm allowed to set
12 that day if I don't think that you're going to do
13 it without me setting a day.

14 So maybe I need to set the day, and that's why
15 I'm thinking I'm going to pick a day today. So I'm
16 going to be asking you when is that day going to be
17 in your mind, and hopefully it will be the same one
18 as mine.

19 So what's that day going to be that you're
20 going to hand over this discovery?

21 MR. ESCOBAR: Well, I think we listed it in my
22 motion. The State and the Defense had a meeting
23 where we discussed at length what we thought was
24 reasonable.

25 THE COURT: Yeah, I saw that.

1 MR. ESCOBAR: And so we have set the
2 completion of depositions by early August.

3 This afternoon I had spoken to Mr. Garcia
4 again about getting about four or five days in
5 early August to complete the remaining depositions.

6 We've got depositions set in this case all the way
7 through July the 31st. So I believe that we can
8 complete the depositions by early August.

9 Now, if the Court recalls, and I think the
10 prosecution will tell you, nobody has been taking
11 their foot off the pedal for the defense.

12 I have taken every available date that we
13 could possibly muster in this particular case, and
14 I think Mr. Garcia will tell you that, every date
15 that we could take depositions.

16 Nobody is dragging their feet. Nobody is
17 taking their foot off the pedal. We are doing
18 everything humanly possible. But if Mr. Garcia,
19 through the volume of cases that he has as well,
20 doesn't have available days for depositions, what
21 is the Court suggesting that we do? Not take them?

22 THE COURT: I didn't suggest that.

23 MR. ESCOBAR: We have to take them. And so
24 we've been accommodating that whole process as best
25 as we can.

1 So I think that by early August of 2015, I
2 believe that we can certainly have the depositions
3 completed. As I've listed in my motion, I believe
4 that by early September 2015, we'll be able to
5 provide the State our witness list.

6 By September and October, I believe that the
7 State has agreed with us that we'll make the dates
8 available for them to take the depositions of our
9 witnesses.

10 So I think that by sometime in October that
11 whole process of the State taking our depositions
12 or the depositions of our witnesses will be
13 completed.

14 We believe that we can file a motion for the
15 statutory immunity by sometime in October. We
16 believe then that the Court can hold a hearing and
17 we would be prepared for that hearing on an
18 immunity motion sometime in early November.

19 In fact, in coming over here, we were taking a
20 look at the calendar to see what we thought would
21 possibly be the best day. I believe there's a
22 November the 16th week --

23 THE COURT: I can give you that week.

24 MR. ESCOBAR: -- that we think we could do
25 that particular motion. So we've listed out, and

1 then actually starting the trial the second week of
2 January. I haven't pulled up that calendar.

3 THE COURT: I happen to have it with me.

4 The second week in January, though, if you
5 mean the second full week, it begins with a court
6 holiday. So I wouldn't have the room available on
7 January 18th.

8 Well, I can begin January 11. We're just
9 going to have Martin Luther King day in the middle
10 of it, so the first Monday would go away.

11 MR. ESCOBAR: Can we pick January the 18th?

12 THE COURT: Well, January 18th, that's the
13 holiday. So we won't be here.

14 I can do January 11th. We can go through and
15 pick 11th, 12th and 13th, hopefully seat a panel.
16 The 14th opening, afternoon of the 14th into the
17 15th for the State.

18 And then you've got the long weekend to work
19 with your witnesses. You come back on the 19th,
20 20th, 21st, hopefully the State is wrapping up.

21 By the 21st, you all can make some decisions
22 on what needs to be done. We can either come back
23 on the 22nd or on the 25th for the Defense's case
24 if it's necessary and you choose to put on a case.

25 And then the 25th -- unless the State is

1 asking for me to do it, in which case we would do
2 it on the 19th -- we'd come back on the 25th, and
3 it would either be a Monday or Tuesday that we'd be
4 doing the viewing at the theater.

5 If anybody is asking for one, it's going to be
6 on a morning, Monday or Tuesday. We're not doing
7 it so that we interrupt the business that those
8 people have going on at the theater.

9 So we're not going to ruin their weekend.
10 We're not going to ruin a Thursday or Friday when
11 they have a new release. So it's going to be a
12 Monday or Tuesday.

13 MR. ESCOBAR: That would probably work with
14 the Defense, Your Honor.

15 THE COURT: Okay. So by September 11th, an
16 easily memorable day, by September 11th, I can have
17 your firm commitment and I would put in an order
18 that you would disclose the names of your experts
19 and any medical records of the defendant that you
20 intend to use, correct?

21 MR. ESCOBAR: Yes.

22 THE COURT: Okay. So if I continued it, you
23 would make yourself available for depositions for
24 the State to depos any of your experts in October.

25 And then we would have November 16th

1 through -- three days should be more than enough
2 time for the immunity hearing if it becomes
3 necessary and you file it. So we'd have
4 November 16th through the 18th for the stand your
5 ground motion, if one gets filed.

6 I would put a light calendar for myself on the
7 19th, and I would get a commitment from the chief
8 judge that I'd have a senior judge available for me
9 if it looked like we needed one.

10 MR. ESCOBAR: That would be November 16th?

11 THE COURT: Yeah. November 16th we'd start.
12 We'd do it the 16th, 17th and 18th. That means
13 that I'd need your motion filed by October.

14 Would October 30th be a sufficient amount of
15 time for the State to respond and prepare? It
16 gives you two weeks. Does that work for you?

17 MR. LOUGHERY: I would assume so, Judge.
18 Obviously, depending on the motion, we'd have to
19 determine what witnesses we'd need to have.

20 THE COURT: Right.

21 MR. LOUGHERY: I would ask, just from the
22 standpoint that since the schedule we're on, they
23 would have completed discovery in August and have
24 their experts given to us by early September, I
25 would think they would know their immunity

1 situation pretty quickly after that point.

2 THE COURT: So you're asking for
3 October 16th we'll call it instead of October 30th?

4 MR. LOUGHERY: Sure.

5 THE COURT: Can you get your immunity motion
6 filed by October 16th?

7 MR. ESCOBAR: I think so.

8 THE COURT: Okay. So the immunity motion
9 filed by October 16th, if you choose to file it.

10 Of course, we're talking completely
11 hypothetically, because I haven't agreed to
12 continue the trial yet. As it stands now it's
13 still August 24th.

14 But if I were to grant it, what else could we
15 possibly need that we would have to work through?
16 Instead of the August 24th trial, if we're looking
17 at January 11th, what else could you possibly need
18 or I could possibly assist you with getting ready,
19 Mr. Escobar?

20 MR. ESCOBAR: Your Honor, the only thing that
21 we need -- I don't think we need assistance from
22 the Court. I think Mr. Garcia is going to provide
23 us those dates, the deposition dates in early
24 August. I just need to have five slots so that I
25 can finish the depos in early August and then move

1 on from there.

2 THE COURT: All right. Let's make sure we get
3 that, and you two will have to work on that.

4 County-wide panel or an east side panel? Have
5 you decided?

6 MR. ESCOBAR: East side panel.

7 THE COURT: East side panel.

8 State, are you okay with an east side panel?

9 MR. LOUGHERY: Yes, sir.

10 THE COURT: All right. We have that.

11 Anything else, Mr. Escobar, before I go to the
12 State?

13 MR. ESCOBAR: Nothing from the Defense, Your
14 Honor.

15 THE COURT: State, Mr. Escobar wrote in there
16 that it's an unopposed motion to continue. Does
17 that mean you also wish me to continue this trial
18 until the schedule that we've now gone through?

19 MR. LOUGHERY: Briefly, yes. But let me just
20 say that --

21 THE COURT: You had me, yes, but if you want
22 to go farther, go farther --

23 MR. LOUGHERY: Well, the unopposed motion has
24 a lot of verbiage in it that I might disagree with.

25 THE COURT: All right. Without adopting the

1 entirety of the motion --

2 MR. LOUGHERY: Yes.

3 THE COURT: -- it's your estimation of the
4 circumstances that it would not be possible at this
5 time for me to try the case on August 24th as we
6 all set out on January 30th?

7 MR. LOUGHERY: Correct. The circumstances as
8 they exist, unless you have them try the case
9 without listing experts and witnesses not being
10 deposed and doing all that stuff, I'm quite
11 confident in my years that the Court is not going
12 to do that. We are in a situation where I don't
13 see how it's at all possible to do this in August.

14 Mr. Escobar and I talked about what's
15 contained in the motion as far as the scheduling,
16 and that seems to have enough wiggle room in it
17 that we should be able to lock into these dates the
18 Court already suggested.

19 THE COURT: That was going to be my next
20 question after I asked if you wanted me to continue
21 it.

22 The question is the timeline that Mr. Escobar
23 and I just discussed, do you find it to be
24 reasonable?

25 MR. LOUGHERY: Yes. Under the circumstances,

1 I'm a little -- I'll just throw this out, and I
2 don't know if Mr. Escobar or Mr. Garcia have
3 talked, but I know he's talking about getting depo
4 time in early August, and I don't know if that's
5 because we've already filled up July or we're
6 skipping July as a time to do depositions or not.

7 THE COURT: He's told me that he has a number
8 scheduled in July.

9 MR. LOUGHERY: Then with that being the case,
10 that all sounds right.

11 THE COURT: Okay. All right.

12 Let's see. Have you had a chance to talk with
13 the victim to determine if she is in agreement?
14 And I can have Mr. Grimaldi speak with the victim
15 if he'd prefer to.

16 MR. GRIMALDI: Yes. Briefly, Your Honor.
17 Mr. Escobar and I spoke before filing the motion,
18 and I stand by the comment that he's made for us.

19 THE COURT: Okay. I just wanted to make sure
20 that you're in agreement.

21 Okay. Well, if everybody agrees that we can't
22 try this case within 18 months of the event, then
23 August is impractical. So I'll agree to the
24 continuance under those circumstances, given that
25 everybody is asking me to do it.

1 Now, I'm going to be unreasonable from this
2 point forward. I might as well put that on the
3 record and make sure that we're clear. I'm going
4 to be unreasonable from this point forward about
5 this.

6 I believe that it's my position to provide as
7 comfortable an environment, as appropriate an
8 environment as possible for the trying of this
9 case, but it's also my job to make sure the case
10 gets tried, and it's got to get tried this time.

11 So what we're going to do is I'm going to stay
12 on top of this by setting a few more pretrials to
13 track the process and make sure that we meet the
14 dates that we've promised.

15 So I think the next pretrial is going to have
16 to be -- let's see, you said early August that you
17 would complete depositions. So let's look at an
18 early August, a mid-August date.

19 MR. GARCIA: Judge, and I have some concerns
20 once you look at the first August date.

21 THE COURT: Tell me about your concerns first.

22 MR. GARCIA: Well, Judge, my concern is that
23 Mr. Escobar said that he would disclose the experts
24 and the medical records by September 11, 2015.

25 THE COURT: Yes.

1 MR. GARCIA: And then we're going to have the
2 stand your ground motion November 16th. So that
3 roughly gives us two months to depose their experts
4 and look at their medical records and depose the
5 doctors.

6 THE COURT: Right.

7 MR. GARCIA: I don't want to get into a
8 position where their experts are not available,
9 they have other trials.

10 So they're going to have to work with their
11 experts and make them available prior to the stand
12 your ground motion. I would assume that they're
13 going to do that.

14 My other concern is with the medical records.
15 You know, yes, they're going to provide the medical
16 records to us, but we're probably going to want to
17 depose the doctors or the physicians that tended to
18 Mr. Reeves in this case.

19 And a lot of times we get, well, because of
20 HIPAA we can't talk to you and we're not going to
21 be able to discuss this on the record and take
22 their deposition. So I'm hoping that we're not
23 going to run into those issues.

24 THE COURT: Okay.

25 MR. GARCIA: I'm hoping that they would have

1 signed the waiver and these doctors are on board,
2 and, you know, we're ready to go.

3 THE COURT: That's what we're going to come to
4 next, then.

5 If you're listing medical records and listing
6 doctors, obviously you're going to facilitate by
7 signing a waiver of the confidentiality for the
8 patient, right?

9 MR. ESCOBAR: As to those medical records,
10 sure.

11 THE COURT: As to those medical records, of
12 course. They don't need to know anything other
13 than that.

14 That's a good reason to have an August
15 pretrial to make sure that those things are being
16 accomplished.

17 State, you can even bring orders with you at
18 that time. If for some reason there's a conflict
19 and I need to sign an order disclosing information,
20 we can do that.

21 So looking at an August date to check on this,
22 perhaps we could do August 28th at 3:00 in the
23 afternoon -- that's a Friday. I don't know what
24 your preference is. It seems like Fridays is
25 usually a day that our calendars are clear.

1 I think it's before the first Florida game.

2 So I don't know if anybody is going up early.

3 It's 3:00 o'clock. We could do that.

4 MR. GARCIA: That would work for the State.

5 THE COURT: That would work for the State.

6 Mr. Escobar?

7 MR. ESCOBAR: Fine.

8 THE COURT: All right. So we're going to do
9 it at 3:00 o'clock right here.

10 I am always going to try and get this room
11 again. I'm going to stop trying to use the other
12 side of the county as that causes consternation to
13 so many. So I'll be booking this room now for all
14 these dates so that we can always meet over here.

15 That's going to be a purely scheduling and
16 checking the progress of discovery. If you want to
17 waive your client's presence, you can do so in
18 writing one week before the hearing. So if you
19 want to waive your client's presence at that one
20 one week before the hearing, let's do that.

21 September 11th is the date that you're going
22 to be handing over all your witnesses so you'll be
23 able to tell me if there is any issue by that
24 August 28th date, which, of course, there won't be
25 because we've checked through this.

1 The next pretrial, and we'll make it a firm
2 pretrial where everybody will have to be present,
3 let's do -- when is the immunity agreement or the
4 immunity thing?

5 MR. LOUGHERY: October 16th.

6 THE COURT: All right. October 16th. So why
7 don't we do October 23rd, then, the week after it's
8 been filed. So that, then, State, if anything in
9 your review of that document crops up as a problem,
10 you can come to us and talk to us.

11 If you haven't been able to work it out with
12 Mr. Escobar, I can arbitrate any disputes that are
13 remaining. So we'll do 3:00 o'clock on October
14 23rd again right here.

15 MR. GARCIA: Is that a Friday as well, Judge?

16 THE COURT: It is a Friday. I've been kind of
17 trying to pick Fridays because I know I can get
18 this room on Fridays.

19 That would next take us to November 16th, in
20 the event that a motion is filed, to begin the
21 immunity hearing. I'm setting it now as
22 November 16th. However, do you have a trial book
23 that you do for Division 1 and 2 now?

24 MR. GARCIA: Yes.

25 THE COURT: Or how does that work? Have you

1 got any big homicides or death penalty cases set
2 that week, and is it one of your trial weeks?

3 Do you want a moment to go check your
4 calendars? I don't know if Judge Gardner is
5 setting that far out, but if she's already set a
6 death penalty case.

7 MR. GARCIA: Judge, I don't think we have any
8 trials set that week as of yet.

9 THE COURT: All right.

10 MR. GARCIA: And if she goes to set one, I can
11 tell her that you have already set the immunity
12 motion the 16th, 17th and 18th, and I won't be
13 available.

14 THE COURT: Okay. And I will talk to Judge
15 Babb to make sure she doesn't have any large civil
16 cases on those three days, as I expect it's going
17 to tie up the courthouse a little if this happens.

18 All right. That takes us to November 16th.
19 That will leave all of December to deal with the
20 fallout one way or another from the testimony that
21 we receive during the course of the hearing. It
22 will also give me two weeks to write my order on
23 the motion one way or another.

24 I'll set a pretrial after the immunity hearing
25 to announce my order on the hearing if the hearing

1 happens, and give you a written copy of my order if
2 the hearing happens.

3 And that takes us to the first week in
4 December, second week in December for me to provide
5 that to you. And that would leave, then, one month
6 for you all to prepare for trial, having everything
7 set out, if immunity is not granted.

8 Trial, three weeks is still my expectation.
9 Is there any reason, based on all the discovery
10 that you've done, Mr. Escobar, that you should
11 believe that three weeks has become an unreasonable
12 length of time?

13 MR. ESCOBAR: No. I think that that's
14 probably pretty close.

15 THE COURT: State, you've now had a lot more
16 time to put into focus what your case would be and
17 what witnesses you might call.

18 Five days of evidence presentation on your
19 behalf or do you think it's legitimately going to
20 go longer than that provided that we work a long
21 week, that we literally go 9:00 to 5:00, no
22 significant breaks?

23 MR. LOUGHERY: No, Judge. I think three weeks
24 is an outside.

25 THE COURT: I'm trying to make sure.

1 MR. LOUGHERY: No. I understand. I think
2 five days. Assuming things go as they typically
3 go, I think that would be enough time.

4 THE COURT: Okay. And, Mr. Escobar, again no
5 obligation on your part to put on evidence, but if
6 you decide to present the case that you've
7 obviously been working on, is four days of
8 testimony enough time you think?

9 MR. ESCOBAR: No. I think it's probably going
10 to be five, maybe six.

11 THE COURT: Five or six. I want to make sure
12 that there's nothing in late January or early
13 February that would get in our way.

14 If we started on January 11th, and the State
15 got to present evidence for the first time on
16 January 15th, that would take us to the 22nd. And
17 then the 25th through the 29th would all be
18 available.

19 If we went to closings, that's going to
20 require at least a day, probably three hours each
21 at least for closings. It might take us to the
22 first week of February.

23 MR. ESCOBAR: My February is fine, Your Honor.
24 My first week of February is fine. I believe Dino
25 has got a trial the second week of February.

1 THE COURT: All right. We need to start now
2 with any experts checking to make sure that these
3 dates would work. Anybody that you've been talking
4 to that you're planning on retaining, make sure
5 that these dates work.

6 State, you know that the bulk of your time is
7 going to come the 19th through the 22nd for
8 testimony. Mr. Escobar, you know the bulk of your
9 time is going to come the 25th through the 28th,
10 possibly even the 29th.

11 Like I said, if either side is planning on
12 doing the trip to the theater, I expect that to
13 happen either on the 19th or the 25th or 26th,
14 because it's going to be on a Monday or a Tuesday.

15 Questionnaires we can deal with later.
16 Courtroom is the same. So we don't have any new
17 issues there.

18 State, can you think of any other issues that
19 we haven't addressed that we need to address to
20 make sure we're on track yet again?

21 MS. SUMNER: Judge, what was the December, was
22 it December 4th?

23 THE COURT: I haven't picked a day in December
24 that I'd give you a ruling on the immunity claim.

25 MS. SUMNER: All right. So we don't have a

1 court date set in December.

2 THE COURT: I didn't set one in December yet.

3 MR. LOUGHERY: Well, that's fine, Judge. You
4 know, when you pick a date, it will be like a
5 pretrial anyway.

6 THE COURT: It will be like a pretrial.

7 MR. LOUGHERY: Okay.

8 THE COURT: And I'll just announce my ruling
9 on the immunity motion. It's too far out to
10 project how that would work.

11 MR. LOUGHERY: And I was saying, if we have
12 some issues at that point, we'll just bring them up
13 with the Court on that same day.

14 THE COURT: Right. We'll definitely have a
15 pretrial.

16 That's the day, the day in December, if we
17 make it to December and we're still on track and
18 all things that have been promised, agreed to and
19 are expected to come to fruition, that would be the
20 day in December that we would put a firm decision
21 down on for a questionnaire and the questions that
22 might be utilized in the questionnaire; panel size;
23 a full draw of summonses that would be issued in
24 order to get an east side panel, because I have to
25 get enough jurors in the jury pool room that I can

1 pull this together.

2 We'd start worrying about seating at that
3 point. I'd be inquiring of both sides if they were
4 going to have jury consultants -- sometimes people
5 do that -- and where they'd be sitting. I would
6 make arrangements for seating for the victim, for
7 the defendant's family, and we'd readdress media
8 presence at that time.

9 The last time we discussed media presence and
10 how we would coordinate that was not quite a year
11 ago, but close to a year ago. So expectations and
12 their needs and necessities might have changed
13 between now and then.

14 So unless anybody had something else. We're
15 not going to be back here again until
16 August 28th at 3:00. So last chance to air
17 grievances or get me to assist you in whatever
18 needs to be done.

19 You know what I didn't ask about that I wanted
20 to ask about and I just remembered? The shoe, it
21 left and it came back?

22 MR. ESCOBAR: No, Your Honor. We just got the
23 transcripts. We're preparing the orders for that,
24 but we are scheduling our experts for that process.

25 THE COURT: Okay. Let's make sure we get the

1 shoe on its week trip with you.

2 What about the other stuff? Did you download
3 their phone?

4 MR. ESCOBAR: We're going to get everything
5 done together. We're going to get the shoe done
6 together. We're going to get the download of the
7 phone done. We're going to get the hard drive of
8 the video. We're going to get it all done with all
9 the experts here at one time.

10 THE COURT: All right. When are we expecting
11 that?

12 MR. ESCOBAR: I'm hoping not this next
13 following week, but the following week after that.

14 THE COURT: Good. All right. Okay. Well,
15 that's everything I have.

16 State, anything else?

17 MR. GARCIA: No, Your Honor.

18 THE COURT: Mr. Escobar, anything else?

19 MR. ESCOBAR: Nothing, Your Honor.

20 THE COURT: Great. We'll be in recess on this
21 one, then, until August 28th at 3:00 P.M.

22 Motion to continue is granted. And we're in
23 recess.

24 (HEARING CONCLUDED.)

25

CERTIFICATE OF COURT REPORTER

STATE OF FLORIDA)
)
COUNTY OF PASCO)

I, MARIA FORTNER, Registered Professional
Reporter for the Sixth Judicial Circuit, do hereby
certify that I was authorized to and did
stenographically report the foregoing proceedings and
that the transcript is a true and correct record.

DATED this 24th day of August, 2015.

MARIA FORTNER, RPR