

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA, IN AND FOR PASCO COUNTY

STATE OF FLORIDA,

Plaintiff,

v.

CASE NO.: CRC1400216CFAES

CURTIS JUDSON REEVES,

Defendant.

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PROCEEDINGS:

MOTION  
PRE-TRIAL CONFERENCE

DATE:

August 26, 2015

BEFORE:

THE HONORABLE SUSAN BARTHLE  
Circuit Judge  
Sixth Judicial Circuit  
Dade City, Florida

PLACE:

Robert D. Sumner Judicial Center  
38053 Live Oak Avenue  
Dade City, Florida 33523

REPORTER:

Victoria L. Campbell, RPR  
Notary Public  
State of Florida at Large

*Paula S. O'Neil  
Clerk & Comptroller  
Pasco County, Florida*

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PASCO COUNTY, FLORIDA

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

(OPEN COURT.)

(Defendant not present.)

THE COURT: All right. Good afternoon. Looks like we've got Curtis Reeves on the docket for 3:00.

Present Mr. Escobar and Mr. Michaels. And Mr. Martin and Mr. Garcia.

I have it down as a pre-trial, but we also have a motion filed by the State, I believe.

MR. GARCIA: Yes, Your Honor.

MR. MARTIN: Yes.

THE COURT: All right. You want to go ahead with your motion, Mr. Martin?

MR. MARTIN: Judge, it's kind of two-fold. First of all, you might recall at the last hearing the Court granted the State's motion and denied the State motion in part.

THE COURT: Uh-huh.

MR. MARTIN: We attempted to agree upon a proposed order and that did not meet with any success. However, we now have the transcript. And I believe you have a copy of the transcript. And just for the Court's benefit, the colloquy that you and I had regarding what should be in the order

1 begins on Page 31. I have attempted to discern  
2 from those pages to the end the appropriate  
3 language for the order.

4 I have drafted a proposed order based on my  
5 interpretation of your intent and your ruling. I  
6 have provided that to Mr. Escobar. And without  
7 speaking for him, I proposed that the order that I  
8 have here in my hand accurately reflects your  
9 ruling on that date and I would ask that you sign  
10 it as drafted.

11 I'll let Mr. Escobar voice any objections or  
12 complaints or comments that he has.

13 THE COURT: Response.

14 MR. ESCOBAR: Good afternoon, Your Honor.  
15 Mr. Martin.

16 Your Honor, I had told Mr. Martin after I  
17 received this proposed order on the 24th of August,  
18 that in reading the proposed order and the  
19 transcript that I feel that it met the Court's  
20 ruling.

21 THE COURT: Very good.

22 MR. MARTIN: May I approach, Judge?

23 THE COURT: Uh-huh. I have -- is this the  
24 same order?

25 MR. MARTIN: I believe so.

1 THE COURT: Somebody handed it to me earlier.

2 MR. MARTIN: Yeah.

3 THE COURT: Let me make sure. Yep.

4 MR. MARTIN: And, of course, it's all  
5 contingent on the Court also agreeing that that  
6 language in that order purports to your intent of  
7 your ruling.

8 THE COURT: It does.

9 MR. MARTIN: All right. Judge, I would ask  
10 that you sign that order without any further delay.  
11 If you wouldn't mind providing the original back to  
12 me, I will make copies for all parties. I'll  
13 distribute to all parties and make sure that the  
14 original is filed with the clerk by the end of the  
15 week.

16 THE COURT: Generally the original goes  
17 directly to the clerk here.

18 MR. MARTIN: I understand.

19 THE COURT: If you -- I see -- the copy you  
20 just gave me, we can give over to my JA and she can  
21 conform them and we can give everybody copies  
22 before they leave.

23 MR. MARTIN: If you would like to do that. I  
24 was just offering that service.

25 THE COURT: That will be easy enough. Yeah.

1 She can make copies of that and then conform them.  
2 And I'll leave the original with the clerk.

3 MR. MARTIN: All right.

4 THE COURT: All right. Next order of  
5 business.

6 MR. MARTIN: Judge, now that that particular  
7 order has been signed, based on the Court's  
8 previous ruling, you denied the State's motion to  
9 regulate discovery without prejudice for me to  
10 revisit with the Court the request that the Court  
11 impose a specific time period for that.

12 May I use the podium, Judge?

13 THE COURT: Certainly.

14 MR. MARTIN: Judge, the reason that I do this  
15 is, as the -- as everybody in the courtroom is  
16 aware, lawyers and judges know that when we deal  
17 with criminal procedures normally there is some  
18 type of time, either within the statute, within the  
19 rule, somewhere that we rely on in order to  
20 determine whether or not compliance has been done  
21 in a manner that would, in fact, benefit the  
22 parties as a whole or one individual party.  
23 Because, as you know, if times -- if things are not  
24 done timely, then the intent of whatever rule is  
25 attempted to be enforced really becomes null and

1 void. It has no meaning whatsoever.

2 The Court is well aware that nothing can be  
3 added to a court file once a sentence has been  
4 imposed, an adjudication or conviction has been  
5 entered into the court file. Once that happens,  
6 the court file is basically closed absent some type  
7 of exigent circumstance that the appellate court  
8 allows something to happen or that the trial court  
9 reopens a file for additional pleadings.

10 I bring that to the Court's attention because  
11 at the last hearing, the Court made the observation  
12 that the administrative order did not specify the  
13 time in which the depositions shall be filed. And  
14 the Court is well aware that the order from the  
15 chief judge indicated "shall", not "may" but "shall  
16 be filed."

17 With that, in a criminal case, implicit within  
18 "it shall be filed" is the understanding that they  
19 need to be filed timely so that the parties have  
20 the benefit of full discovery within a criminal  
21 case, which Florida has enacted a statute to have,  
22 prior to any hearing or to any trial. And for it  
23 to be timely and beneficial, it has to be in a  
24 manner in which the parties can have time to digest  
25 and to use to appropriately prepare for the hearing

1 or the trial. And that's the reason I'm before the  
2 Court now.

3 You indicated at the last hearing that though  
4 you did not order, you indicated that the Defense  
5 does have a remedy if the Defense chose to take  
6 exception to the Court's order to file the  
7 depositions, to seek authorization from the chief  
8 judge for the depositions not to be filed. I'm  
9 here today to inform you, as far as the State is  
10 aware that, as of today, no hearing has been set  
11 before Chief Judge Rondolino by the Defense seeking  
12 that sort of exception.

13 Therefore, I'm asking the Court, because right  
14 now we do have a hearing scheduled in November, a  
15 lot of the depositions have already been  
16 transcribed -- and there's more to come and we'll  
17 discuss that later in another context, but there's  
18 more to come -- that you enter an order instructing  
19 and commanding Defense Counsel to immediately file  
20 those transcripts with the Clerk of Court of Pasco  
21 County pursuant to the administrative order. That  
22 is why we're here today.

23 With that, that is the crux of the State's  
24 motion. What I would ask the Court to allow me a  
25 brief time to respond to any comments that



1 Mr. Escobar might make before you make any further  
2 ruling.

3 THE COURT: Certainly. Thank you, Mr. Martin.

4 MR. MARTIN: Thank you.

5 MR. ESCOBAR: May it please the Court.  
6 Mr. Martin.

7 Judge, I was quite surprised by this motion by  
8 the Government because, frankly, we had been before  
9 the Court on this very same motion just a few weeks  
10 ago.

11 And I appreciate the Court's statements at  
12 that particular hearing. And one of the  
13 statements, and it's in the transcript that the  
14 Court has, the Court specifically indicated that  
15 the Court was not going to interpret that  
16 administrative order; that what the Court was going  
17 to do is grant the compelling, but was not going to  
18 mandate at this point in time that the Defense  
19 provide copies of those particular depositions to  
20 the clerk so that the State Attorney's Office could  
21 get those copies for free.

22 This is not a discovery order that we're  
23 talking. This administrative order is not a  
24 discovery order. The State Attorney's Office was  
25 present at each and every one of those depositions.

1 They were present at each and every one of those  
2 depositions and they were taking notes.

3 This motion by Mr. Martin today is all about  
4 money. It's about his request to save the State  
5 Attorney's Office about 50- to \$60,000 in copying  
6 fees that the court reporter charges for this  
7 service. So, in other words, they're taking that  
8 money that belongs to a court reporter that doesn't  
9 make a whole lot of money and they're saying, "We  
10 don't want to pay that court reporter. What we  
11 want to do is we want to try to circumvent that by  
12 making Mr. Escobar file those depositions with the  
13 clerk so that then we can get a free copy."

14 If you read the order, the administrative  
15 order, it is not a discovery order. We were both  
16 at those proceedings. And, so, I think that is  
17 crucial in this case. And maybe, just maybe, when  
18 that order was signed there was a lot of thought  
19 put into it because specifically that order does  
20 not require a time limit or a time period for the  
21 filing. And let's examine that.

22 If the Court recalls the memorandum that we  
23 filed in this case, there was a significant case  
24 that was decided by the Florida Supreme Court in  
25 1987, which was prior to the signing of this

1 administrative order. And that case was *Palm Beach*  
2 *Newspaper versus Burk*. And it's located at 504  
3 So.2d 378.

4 If the Court recalls the language of that  
5 case, it was incredibly strong. And the language  
6 was very clear. There's no mandate to file these  
7 depositions. In fact, they go through a litany of  
8 examinations of why it is so dangerous to file,  
9 especially in criminal cases, a deposition  
10 transcript. Why? Because defense attorneys are  
11 exploring all sorts of questions and all sorts of  
12 answers in those particular transcripts. And some  
13 of those particular answers could be detrimental to  
14 the defendant who is trying to get a fair trial in  
15 that very community.

16 And, so, the Supreme Court of Florida goes on  
17 and on and on examining various cases dealing with  
18 that particular issue. And they were very, very  
19 strong on the fact that, "Hey, listen. It is not a  
20 good idea. It is not a good idea for these  
21 depositions to be filed." And, so, maybe, just  
22 maybe, when that administrative order, if it  
23 pertains to the defense bar, which I believe it  
24 doesn't -- the private defense bar -- but if, in  
25 fact, it pertains to the private defense bar, maybe

1       that was the reason that the chief judge at that  
2       point in time chose not to put a time limit to say,  
3       "Hey, listen. File them after the case is over."

4               Because, again, it provides -- there's no  
5       discovery mechanism here that by me filing that  
6       transcript it's going to give him any opportunity  
7       that he wasn't aware of. He was at those  
8       depositions.

9               So what I would ask the Court to do, as the  
10      Court did at the last hearing, is to not set a time  
11      period. If they want those depositions, there is a  
12      process that they can get those depositions. They  
13      can call that court reporter. They can say, "Hey,  
14      listen. I want a copy of that transcript" -- which  
15      it's going to cost them about a third, I believe,  
16      of what it cost me -- and then they can get their  
17      copies. To do anything otherwise, Your Honor,  
18      would be to take our property, the Defense's  
19      property, and to say, "Hey. You know, you paid for  
20      that property, but, guess what, the Court's going  
21      to control that property and we're going to make  
22      you, Mr. Escobar and Mr. Reeves, spend additional  
23      moneys so that now you have to make a copy so that  
24      that copy can go to the State of Florida so that  
25      they can get it for free."

1           I don't believe, Your Honor, that that was the  
2           intent of the administrative order in this  
3           particular case. And I certainly don't think that  
4           that certainly would comply with what we've learned  
5           from the Supreme Court of Florida in *Palm Beach*  
6           *Newspaper versus Burk*.

7           And, so, I would ask the Court, you know,  
8           based upon these particular arguments, to deny that  
9           and to tell the State, "No. You've got a remedy.  
10          Go pay for it just like Mr. Escobar paid for it."

11          THE COURT: Mr. Escobar, what about the --  
12          Mr. Martin's indication that you have not sought  
13          any redress with the Chief Judge.

14          MR. ESCOBAR: And this is the issue, Your  
15          Honor: I think that the Court read my memorandum  
16          of law. I think it is abundantly clear that this  
17          particular order does not pertain to the private  
18          bar. There was a whole purpose of this order. And  
19          the whole purpose of this order is that the court  
20          wanted to regulate court-appointed counsel from  
21          ordering every depo known to man without proving  
22          that that particular witness was a material witness  
23          in that particular case.

24          The 95 percent -- actually 98 percent of that  
25          order deals with exactly that. And, so, when

1       you're reading that one sentence that says, "You're  
2       going to be filing those depositions", it is  
3       abundantly clear that that one sentence pertains to  
4       court-appointed counsel. Because that was the  
5       intent of that order is for the Court to protect  
6       the county from the expenditure of globs of money  
7       that possibly weren't necessary in a criminal  
8       trial.

9               If you remember how that order starts, that  
10       order starts with a preamble. And that preamble  
11       says, "Mr. Prosecutor, Mr. Court-appointed Defense  
12       Attorney, you don't need those depositions in order  
13       to effectively carry out your jobs."

14              And, so, our position, Your Honor, is is that  
15       we're not going to make this administrative order  
16       something that it's not. It doesn't pertain to the  
17       private bar. So for me to go before the chief  
18       judge at this point in time on an order that  
19       doesn't pertain and doesn't regulate the private  
20       bar would be a big mistake.

21              If for some reason -- and I will tell the  
22       Court this as an officer of the court -- because  
23       whether the Court rules that we have to file it  
24       today or whether we have to file it, you know, at  
25       some point after the trial -- this is a huge issue

1 I think in this particular circuit. And this is an  
2 issue that I will tell the Court that we're going  
3 to take up on a writ. I think it's the responsible  
4 thing for us to do in this particular case.

5 But I would ask the Court, certainly at this  
6 point in time, not to order us to place those  
7 deposition transcripts in the court file. Because  
8 once the Court does that, the harm is done.  
9 Everything that was talked about by *Palm Beach*  
10 *Newspaper*, it's been done and we can't out do it --  
11 we can't undue it.

12 Remember, this case has had incredible  
13 publicity. For the first time in my 32 years of  
14 practice, the actual docket has its own website  
15 that allows the public in the entire country to go  
16 onto that website and to see what is going on in  
17 this case, something that certainly I don't agree  
18 with. I don't think it comports with what the  
19 issues that were discussed in *Palm Beach Newspaper*.  
20 But it is far too dangerous at this point in time  
21 for this Court to order us to file those  
22 transcripts because then the harm is done.

23 What I'll tell this Court, as an officer of  
24 the court, we've gotten the transcripts. Within  
25 the next 30 days, we are going to file -- the Court

1 has filed your order concerning the last hearing.  
2 Within 30 days we'll be filing a writ in this  
3 particular case because it's an issue that I think  
4 needs to be addressed by the appellate courts and  
5 we need to have some finality in this circuit on  
6 this issue.

7 THE COURT: All right. Mr. Martin?

8 MR. MARTIN: I might need a little bit more  
9 than the three minutes I asked for; is that all  
10 right?

11 THE COURT: That's okay. That's fine. I  
12 fortunately did not have anything scheduled beyond  
13 this hearing today, so I can be a little more  
14 forgiving.

15 MR. MARTIN: Judge, what I'd like to do is, in  
16 no particular order, just address some of the  
17 issues.

18 THE COURT: Uh-huh.

19 MR. MARTIN: And would the Court mind going to  
20 your rule book, 3.220(h), Discovery Depositions,  
21 (2).

22 Let's start with that and then I'll address  
23 the other issues.

24 THE COURT: All right. I haven't gotten my  
25 new rules book tabbed all the way yet.



1 MR. MARTIN: I don't have mine either.

2 THE COURT: I hate changing to a new rules  
3 book.

4 MR. MARTIN: And that's why it took me a  
5 little bit to thumb through it.

6 THE COURT: All right. Where are we at, which  
7 rule?

8 MR. MARTIN: We're at 3.220 regarding  
9 Discovery -- (h) Discovery Depositions.

10 THE COURT: Uh-huh. Got it.

11 MR. MARTIN: All right. And then (2)  
12 Transcripts. Okay?

13 THE COURT: Uh-huh.

14 MR. MARTIN: I'll give the Court just a moment  
15 to read that.

16 Do you have that?

17 MR. ESCOBAR: He'll pull it up.

18 THE COURT: Okay.

19 MR. MARTIN: Here (indicating). It's real  
20 short.

21 Okay. Judge, my first observation is is that  
22 Mr. Escobar's argument to you was basically a  
23 rehash of the argument that we had several weeks  
24 ago. He didn't say anything different. He  
25 complained about the administrative order. He gave

1 his own interpretation of what the effect was.

2 And you might recall at the last hearing,  
3 Judge, I explained to the Court that the focus of  
4 the previous motion was very focused, "File them."  
5 What happens afterwards is none of the Defense's  
6 business. None. Okay? And you granted it.

7 You have already granted a "Shall file the  
8 depositions." You've already granted that. The  
9 only thing we're talking about here is you putting  
10 a time limit on it. And all this huffing and  
11 puffing about, "I'm going to take cert and what I'm  
12 going to do if you do", doesn't make any  
13 difference. The Court needs to make a legal  
14 determination of how its going to manage this case.

15 The reason that I bring your attention to the  
16 transcript, it says, "No transcript of a deposition  
17 for which the State may be obligated to expend  
18 funds shall be ordered by a party unless it is in  
19 compliance with general law." In this case that's  
20 Administrative Order 99.35.

21 I don't want to rehash the law. You've  
22 already filed it. Whether or not he takes a writ  
23 doesn't mean that this hearing is going to be  
24 stayed. And the Court does not have to grant a  
25 stay to the order of filing because he takes a

1 writ. That's completely within the Court's  
2 discretion. If you want -- if we bring this to an  
3 absolute halt until this writ is litigated, well,  
4 that's for the Court to decide. But it's within  
5 your discretion not to stay your order and your  
6 discretion not to stay these proceedings.

7 The other thing that Mr. Escobar complained  
8 about is, "You're not only taking money -- " this  
9 is his argument " -- away from the court reporters,  
10 you're taking it away from me because now I have to  
11 make a copy and file it with the Clerk of Court."

12 Judge, the administrative order says that the  
13 original will be filed. When Mr. Escobar orders,  
14 he orders an original and a copy. He has his copy;  
15 the clerk files an original. There's no additional  
16 cost to Mr. Escobar.

17 In dealing with the depositions he pointed out that  
18 the administrative order says, "Well, you don't  
19 need all the depositions." Well, you might go back and  
20 look at -- and, again, Rule 3.220. Why is that in  
21 there? Because it is consistent with the  
22 prosecutor's -- I was going to say "obligation",  
23 but that's not really true. That the prosecutor  
24 could designate witnesses A, B, and C. Witnesses C  
25 designated by the State, there is no deposition absent

1 good cause. And with B, we have to fight it out.

2 So the administrative order is consistent with  
3 the Rules of Discovery as far as A, B, and C. And  
4 as you know, the State did not designate the  
5 witnesses in this case. We just did not. We're  
6 not going to -- he can take the depositions that he  
7 wants.

8 So the bottom line is, there -- Mr. Escobar  
9 gave you no compelling reason to have these  
10 depositions not filed.

11 And that brings me to the very last statement  
12 that I want to make, and that's *Palm Beach versus*  
13 *Burk*. He argued that at the last hearing. That  
14 particular case is a civil case. And if memory  
15 serves me, that case involved a reporter who wanted  
16 to sit in on the depos. And if I'm incorrect, I'm  
17 incorrect, but that's my understanding of *Burk*.

18 The whole analysis of whether or not a  
19 newspaper reporter could sit in on the depos spun  
20 around that we're not going to have a newspaper  
21 reporter sit in on the depos because certain things  
22 might come out in the depos that in a civil case  
23 the parties don't want in the record because under  
24 the civil rule the depositions do not have to be  
25 filed. We're talking apples and oranges. That's

1           what I argued at the last hearing with *Burk*.

2           In a criminal case in the Sixth Circuit since  
3           1999, criminal discovery depositions are filed with  
4           the respective clerks in the respective counties.  
5           And so *Burk* is not on point, not at all.

6           He gave you no legal reason not to set a time  
7           period so that the parties can in a timely,  
8           beneficial manner have access to the discovery  
9           depositions.

10          It is reciprocal discovery. Once he  
11          participates in the discovery, he is bound by the  
12          local and general laws within the circuit that  
13          Mr. Escobar has chosen to practice. And in the  
14          Sixth Circuit, this is the way we've done business  
15          for the last 15 years. There's nothing illegal  
16          about it. This is the way we do business.

17          And I'm he asking the Court to use its  
18          inherent power to give full and force effect to its  
19          previous order to now enter an order setting a  
20          specific time period that those depositions shall  
21          be filed so that the parties can use them in a  
22          meaningful manner at the upcoming hearings and  
23          trial.

24          And I would remind the Court that what happens  
25          after they're filed with the clerk has no business

1 with Mr. Escobar. None. That is something that  
2 the chief judge -- that is totally beyond his  
3 control. Once the originals are filed, it doesn't  
4 make any difference what happens after that. That  
5 should not impinge or weigh -- give any weight to  
6 your legal analysis of whether or not you should  
7 set a time period.

8 I'm asking the Court today to set a time  
9 period to have them filed immediately. There's no  
10 reason -- he knows it's coming. He knows they're  
11 transcribed -- to have them filed immediately. And  
12 all future depositions that are taken is once the  
13 original has been completed -- not when he receives  
14 it or some other time -- once the court reporter  
15 has that original done, that he, Mr. Escobar, is to  
16 have that filed within five days. Now, whatever  
17 time period that comes out to be that's fine. But  
18 once the original exists, he has five days to file  
19 it. And I believe that that would give full force  
20 and effect to the Court's previous ruling.

21 Thank you, Judge.

22 MR. ESCOBAR: Your Honor, may I have just a  
23 couple of rebuttals?

24 THE COURT: Mr. Martin will have to have the  
25 last say.

1           MR. ESCOBAR: Your Honor, the rule that  
2 Mr. Martin cited, which is (h) (2), has a very  
3 important operative word, and that's, "obligated".  
4 Here they're not obligated to expend monies for  
5 these depositions, period. Even the preamble of  
6 their own administrative order says so.

7           And, no, the *Palm Beach Newspaper versus Burk*  
8 did not deal with a civil filing of depositions; it dealt  
9 specifically with the filing of depositions in a  
10 criminal matter. I've got the case here, if the  
11 Court wants it. I'd be more than glad to pass it  
12 up to the Court because some of the quotes of our  
13 Florida Supreme Court on this very issue were  
14 incredibly important.

15           The issue, Your Honor, before the Court today  
16 is what does the administrative order say. And  
17 that plain language does not mandate the filing of  
18 those transcripts pursuant to any time period  
19 whatsoever. We know that it's not a discovery  
20 obligation by the Defense. This is not a discovery  
21 rule. This is not something that I've got to give  
22 them in order -- that only I have in order for them  
23 to prepare their case. This is a situation where  
24 they were with us at their witnesses' depositions  
25 and took notes.

1           Mr. Martin completely shies away from what  
2           this issue is. This issue is about money. He told  
3           me it was about money. He said, "You know, I've  
4           got to figure out how this is going to play out as  
5           far as dollars and cents."

6           And, Your Honor, this is the only circuit that  
7           I am aware of, this is the only circuit in the  
8           State of Florida that uses Mr. Martin's  
9           interpretation that these transcripts have to be  
10          filed.

11          In fact, as the Court well knows, the Rules of  
12          Criminal Procedure, especially when dealing with  
13          the issue of deposition transcripts, pretty much  
14          follows the civil rules. I mentioned that in my  
15          memorandum that I gave to the Court back a few  
16          weeks ago. And it's quite interesting because  
17          under the Civil Rules of Procedure, you can't file  
18          a deposition transcript with the clerk's office  
19          unless you get, number one, special permission from  
20          the court and that deposition transcript is  
21          necessary for the court to rule on that particular  
22          issue.

23          So somehow Mr. Martin thinks that the rules in  
24          this particular circuit should be different than  
25          the Rules of Civil Procedure dealing with discovery



1       depositions in the civil arena only because, I  
2       guess, somehow he believes that the State  
3       Attorney's Office should get some budget help in  
4       the payment of deposition transcripts. Your Honor,  
5       that is just absolutely not reasonable.

6               And, so, I would ask the Court -- and I want  
7       to the Court to understand, my statement to the  
8       Court that we were going to take this up on a writ  
9       was, you know, not derogatory in any way to the  
10      Court and I don't want the Court to think that.  
11      But this is an issue, Your Honor, whether the Court  
12      says you've got to file them within ten days or  
13      within 30, this is an issue that needs to be  
14      decided by the appellate court so that this doesn't  
15      happen to any other defense attorney or any other  
16      defendant in this particular circuit.

17             But I would ask the Court to take a look at  
18      the rule that he just cited. It does not stand for  
19      the proposition that this administrative order is a  
20      general rule, number one. And, number two, most  
21      important, he's not obligated. This deals with  
22      situations where the county is obligated to expend  
23      those funds. He's not obligated to do anything.  
24      He doesn't even have to order these transcripts.

25             So I would ask the Court to deny his motion.

1           If the Court were to set a time period for us  
2           to file those depositions, I would ask the Court to stay  
3           that particular order until the appellate courts  
4           have had an opportunity to review this matter and  
5           rule accordingly. If not, Your Honor, we're going  
6           to have a set of depositions out there and it's going to  
7           create a nightmare for the fairness of this  
8           particular trial, which I don't think anybody in  
9           this case wants.

10           And, so, I would respectfully ask the Court to  
11           deny his motion.

12           MR. MARTIN: Three minutes, Judge? Promise.

13           THE COURT: Yeah. That's fine.

14           MR. MARTIN: All right.

15           THE COURT: You don't have to be three  
16           minutes.

17           MR. MARTIN: Judge, if you would go back to  
18           the rule and we go back to the first comment  
19           Mr. Escobar focuses on, the term, "obligated". It  
20           says, "The State may be obligated." Once  
21           Mr. Escobar says, "I'm not filing", then that "may"  
22           comes into play. Because now, if you take his  
23           argument, which I don't really adopt, but if you  
24           take his argument, now I'm obligated. Now, if I'm  
25           obligated and he's taking the position he doesn't

1        have to file them, he should have followed the rule  
2        and gone before the chief administrative judge and  
3        had the judge determine whether or not he's going  
4        to allow the depositions. Because, by his actions,  
5        he has taken this particular rule and put it in  
6        play.

7                If you believe Mr. Escobar, now that he's  
8        saying, "I'm not filing them and I can pay for  
9        them", this comes into play. Now I'm obligated and  
10       he didn't follow the rule. And since he's done it  
11       from the very beginning, then he should have done  
12       it in the very beginning.

13               I'd also point out to the Court that if you  
14       would look at the Rule (h), Mr. Escobar talked  
15       about the civil, and under our rules that there is  
16       no compelling -- there is no rule about filing a  
17       deposition, that is true in a civil case. But if  
18       you look at our rule, our rule doesn't talk about  
19       filing. Our rule simply states, "Except as  
20       provided herein ..." "Except as provided  
21       herein ..." -- goes over to Transcripts. "The  
22       procedure -- the procedure for the taking the  
23       deposition, including the scope of examination, and  
24       the issuance of subpoenas for deposition by an  
25       attorney of record in the action, shall be the same

1 as that provided in the Florida Rules of Civil  
2 Procedure." That's it. Nothing about filing. It  
3 says, "Except as provided herein ..." "Except as  
4 provided herein ...", you have to go back and look  
5 at the transcripts. Now that I'm obligated, the  
6 administrative rule kicks in.

7 Judge, I'm asking you to set a time period for  
8 these depositions to be filed.

9 THE COURT: All right. Mr. Martin, I'm, once  
10 again, faced with a rule that is -- needs to be --  
11 needs further interpretation.

12 Where -- specifically Rule 3.220(2),  
13 Transcripts. "No transcript of a deposition for  
14 which the state may be obligated to expend funds  
15 shall be ordered by a party unless it is in  
16 compliance with general law."

17 What does that mean? Have you researched that  
18 at all? What general law? Which one are we  
19 talking about here?

20 MR. MARTIN: The best I can do -- Judge, I  
21 apologize for sitting down.

22 THE COURT: That's okay.

23 MR. MARTIN: The best I can do is I went to  
24 Black's Law Dictionary and the I read the  
25 definition.

1 THE COURT: Okay. That's what I was afraid  
2 of. I don't like rules like that. It is, like,  
3 okay, now, where do I go from there? Usually that  
4 says, "See 3.55 or something." There's nothing  
5 there.

6 MR. MARTIN: I will tell you that that -- I am  
7 not prepared to address that issue with the Court  
8 because the Court's already ruled that they're to  
9 be filed.

10 THE COURT: Correct.

11 MR. MARTIN: Okay?

12 But I did look at the law. That law was  
13 changed in 2010, when we had the amendment to the  
14 Florida Constitution. And they had to use state.  
15 Before that, it was much longer (indicating). I'm  
16 using my hands. It went on forever. And I didn't  
17 bring that with me. And it had some information  
18 about what you are asking. For some reason they  
19 elected to take all of that out.

20 The bottom line is, the best I can tell you  
21 about general law is what's Black's Law Dictionary  
22 said, the one I had in law school many, many years  
23 ago. Hopefully it hasn't changed.

24 So to answer the Court's questions, yes. What  
25 I guess I need -- I'm trying to impress upon the

1 Court is that just because -- just because there is  
2 not a specific time set in the administrative  
3 order, the order has to be given its full effect.  
4 And the only way to do that is to set a time  
5 period, otherwise, right up until sentence, the  
6 depositions could be filed. And the Court does  
7 have the inherent authority to regulate discovery.

8 And what I'm suggesting to the Court is  
9 because discovery is reciprocal within the State of  
10 Florida, because depositions have been taken under  
11 the reciprocal rules and now Mr. Escobar has very  
12 eloquently demonstrated how the State may be  
13 obligated to the transcript, the administrative  
14 rule takes place. In order for that to have any  
15 meaning whatsoever, the Court -- because if the  
16 defense attorney does it upon him or herself say,  
17 "I've got to file them; well, by golly, I've got to  
18 file them; here they are", you walk away.

19 Mr. Escobar is not taking that position. He's  
20 taking, "Oh, there's no time period. Right up  
21 until the time the judgment is in there I can do  
22 it."

23 Well, you know, that is not the intent or the  
24 goal of the administrative order. And I'm asking  
25 this Court to enter an order based on its inherent

1 authority to enforce its now previous order so that  
2 you give full force and effect to the  
3 administrative order and set a time period.

4 That's the best I can do for the Court.

5 THE COURT: All right. In all candor, I had  
6 hoped that this would have been an issue that would  
7 have been addressed by the chief judge.

8 And it almost seems to me before the Second is  
9 asked to get involved, I would think all  
10 administrative remedies need to be explored, but  
11 I'll leave that in your discretion, Mr. Escobar.

12 But -- so, quite frankly, that's what I  
13 anticipated, that the chief judge would address  
14 this issue and make that final determination as to  
15 who this administrative order applies to and when  
16 and how.

17 Since that hasn't been done and I did  
18 previously rule that the transcripts need to be  
19 filed, what you're asking me, again, Mr. Martin, is  
20 basically to deem that the administrative order  
21 applies to everyone and all parts of it have to be  
22 complied with. What I want to know is a couple of  
23 questions:

24 How is the State Attorney's Office prejudiced  
25 by not filing? Specifically. You indicate,

1 obviously, the upcoming anticipated hearing in  
2 November. Obviously I know that the transcripts  
3 are used for impeachment, but it would be  
4 unrealistic to look at this case as being  
5 completely the same as any other.

6 Mr. Escobar points out the fact that once the  
7 transcripts are filed -- to my knowledge, there is  
8 a direct link to the docket and I'm not sure if all  
9 items are viewable by everyone on the planet or  
10 not, but I sense that they are.

11 Madam Clerk?

12 THE CLERK: Unless you order otherwise.

13 THE COURT: Okay. And that brings me to the  
14 other nagging element of this is that this is the  
15 way we've always done it. You know, depositions  
16 have always been filed. But that's not -- that  
17 doesn't really get it for a legal argument. Yes,  
18 they are usually filed, but, no, we don't usually  
19 have everyone looking at these. So I can't simply  
20 ignore that fact and the potential ramifications it  
21 may have down the road for picking a jury, et  
22 cetera, all of which I am charged with regulating  
23 and doing in a lawful fashion. So it does concern  
24 me.

25 So what -- and I can't help but remember, of



1 course, that one of you folks in the State  
2 Attorney's Office was present. You certainly ought  
3 to have some working memory of what happened. And  
4 I would think if you anticipate using any of that  
5 for impeachment, you know, I wouldn't think you  
6 would need 35 or 50 depositions to do so.

7 And I'm not going to get involved in how you  
8 prepare your case, but I really have to weigh the  
9 interests here when it comes to this issue. I'd  
10 rather not be making this call at all. But --  
11 because I think the chief judge can finalize it  
12 much more effectively than I can.

13 But since I do have to make a call today,  
14 what -- Mr. Martin, how is the State Attorney's  
15 Office prejudiced by not filing?

16 MR. MARTIN: Judge, with your permission what  
17 I would like to do is I would like to respond to  
18 one of your other comments because then I believe  
19 it will help me answer the question that you want  
20 me to answer right now.

21 Is that acceptable?

22 THE COURT: Absolutely.

23 MR. MARTIN: Judge, you indicated that one of  
24 your concerns was that the depositions filed with  
25 the Clerk of Court are, in fact, public record.

1       You're concerned about the publicity of this  
2       particular case. Let me just make a few -- couple  
3       observations and then I'll get to my argument.

4               Public records requests have already been made  
5       of all the police reports, every one of them. The  
6       shooting's on YouTube. Where what? We can't  
7       unring that bell. Okay?

8               So when we're talking about prejudice, we're  
9       talking about the horse that's already left the  
10      barn. If there's any prejudice, then it's  
11      something that we're going to have to deal with  
12      when we have jurors sitting in front of us.

13              So to answer your question about you have  
14      to -- you have to weigh and take that in  
15      consideration, I'm very respectfully going to say,  
16      no, you don't. That is not your job. The  
17      administrative order gave that to the chief judge.

18              If Mr. Escobar is concerned about the filing  
19      of the depositions, seeking an authorization for  
20      exemption, he could make one of those arguments to  
21      the chief judge. I'm not saying --

22              And, so, if we look about how things are to  
23      proceed, I would suggest to the Court that as the  
24      trial court judge that, respectfully, your focus is  
25      on giving full effect of the administrative order

1 in front of you. It's the chief judge to grant any  
2 exceptions and not Your Honor. That's just my  
3 observation; you can take it for what it's worth.  
4 But I understand the concern.

5 But the problem you're dealing with prejudice  
6 as far as the defense's right for fair trial, the  
7 horse is out of the barn. There's ways to deal  
8 with that. And you know that we have pictures and  
9 very high profile case. It's not impossible. And  
10 with everything already out there, we're going to  
11 have to deal with it. "What do you know? What  
12 preconceived notions do you have? Do you go to  
13 Cobb Theatre? Have you been there before?" All of  
14 that stuff we're going to have to deal with whether  
15 these depositions are in the file or not.

16 Now, what I believe the Court -- if that is  
17 your concern -- what the Court may have authority  
18 to do -- and I say, "may", because I haven't  
19 researched it -- is that given proper notice to the  
20 media, that you could order that the depositions be  
21 sealed. But you know that that would be a hearing  
22 because there is First Amendment privileges  
23 involved and that you would have every newspaper  
24 here arguing that, "No, that you should not do  
25 that." But, to me, that is your authority, if you

1 will.

2           Once you say they should be filed -- and  
3 you've already said they should be filed, you've  
4 already made a decision that the filing of the  
5 depositions outweigh any prejudice. You've already  
6 made that decision. You've already made it. So  
7 any exception comes from the chief judge,  
8 Rondolino, pursuant to that, and your only  
9 recourse, respectfully submitted, Judge, is to have  
10 a hearing notifying the appropriate parties that  
11 have First Amendment issue and have a hearing  
12 sealing the depos. I would suggest that you do not  
13 do that.

14           Now, back to -- I wanted to do that first  
15 because we were talking about prejudice. That is  
16 the prejudice that may or may not exist. I would  
17 suggest to the Court that any type of articulation  
18 of prejudice as to how the State is prejudiced is  
19 not relevant to these proceedings -- and I say that  
20 very respectfully -- because the administrative  
21 order says they shall be filed.

22           If there was any inclination that prejudice to  
23 the State had to be a factor taken into  
24 consideration, then the administrative order would  
25 say, the depositions may be filed upon a finding by

1 the court that there is no prejudice to the State  
2 or the defense for filing or not filing. It  
3 doesn't say that.

4 This Court has already made a ruling without  
5 inquiring of the State of how they're prejudiced  
6 and I'm asking the Court to go forward with that  
7 ruling and to enter an order and timely doing them.

8 That's why I wanted to bring the prejudice  
9 that way. And I do that very respectfully to the  
10 Court, that it is -- it's just not relevant because  
11 you've already ruled that they're to be filed. So  
12 whatever I say or do or try to control doesn't make  
13 any difference; you've already determined that  
14 they're going to be filed.

15 So I respectfully -- very respectfully decline  
16 to go any further with that and those are the  
17 reasons that I do. And hopefully that would  
18 satisfy the Court's inquiry. However, if you're  
19 ordering me to have that discussion with you, then,  
20 of course, you know I would obey anything that you  
21 ask me to do. But I'm suggesting that it's not  
22 relevant.

23 THE COURT: All right. And I appreciate that.  
24 The only reason that I have to go forward is  
25 because you're asking me to go further than what

1 the AO says. There is no time limit there. So,  
2 you know, I'm trying to just follow the AO. And,  
3 quite frankly, I've gone over the AO over and over  
4 and over from line to line and there is lots of  
5 room for interpretation if one is so inclined. As  
6 I indicated the last time, I'm not. And there is  
7 clear indication that it is meant for government  
8 attorneys. And, again, that is why I felt it was  
9 more appropriate for the chief judge to entertain a  
10 request to alleviate the requirement or do away  
11 with them as he sees fit in this case.

12 It's hard to deal with one issue and not all  
13 of them when it comes to this item. And I ask that  
14 question because of your request to have me go  
15 beyond -- look beyond the one sentence that I  
16 indicated was clear and unambiguous. But, again,  
17 if you could take it with the entire administrative  
18 order, I'm not so sure.

19 So what you're asking me to do is basically do  
20 away with everything that I thought and considered  
21 in the last hearing that, you know, again, I was  
22 hoping to avoid and I have to -- I have to address  
23 it now any way you look at it. And if I'm going to  
24 have to go -- stick to the administrative order,  
25 then there's also remedies in there for at least

1 the transcribing, which ones are going to be  
2 transcribed and which ones are going to not.

3 So what I'm inclined to do is -- again, my  
4 reason for questioning about what prejudice by not  
5 filing is I guess we're going to have to take these  
6 by deposition by deposition request. Is there some  
7 basis, some -- just like in the AO, it -- cost is  
8 obviously in the forefront consideration. I guess  
9 that's what we're going to have to do here.

10 I can -- upon request of certain depositions,  
11 I will consider whether or not I feel they need to  
12 be filed. And that's, I guess, the best way I can  
13 handle this without some further guidance as to  
14 whether the AO applies to private parties or not,  
15 I'll just have to go -- since I did order that they  
16 will be filed in accordance with the AO, I'll have  
17 to apply the rest of the requirements in a similar  
18 fashion. And that AO clearly indicates, upon order  
19 of the Court, certain things shall be done. So  
20 I'll just have to apply that rationale to these as  
21 well.

22 Certainly, depending on the posture of the  
23 case will make a difference what transcripts need  
24 to be filed. And I'm not inclined to even  
25 entertain any sealing or anything like that. I

1        hadn't really thought of that to begin with, but  
2        I'm pretty sure that's not a viable option. So I  
3        guess I'll leave it at that.

4                I'll entertain a request for specific  
5        depositions, which ones need to be filed, and I  
6        will either grant or deny that request. And if I  
7        grant, I will put a time limit of within 30 days.

8                MR. MARTIN: May I be heard just for a moment?

9                THE COURT: Uh-huh.

10               MR. MARTIN: I believe that the procedure that  
11        the Court has set forth flies in the face of the  
12        administrative order because only the chief judge  
13        has the authorization pursuant to the order to  
14        grant authorization for not filing.

15               I only bring that to the Court's attention  
16        because if we do start this process, then we're  
17        going to be litigating the Court's authority to do  
18        so and I'm not really here to argue that here  
19        today. But only the chief judge, according to the  
20        AO -- and this Court is relying on the specific  
21        language of the AO. But, now, Judge, what -- and I  
22        very respectfully say this -- you're attempting to  
23        invoke your inherent power to regulate discovery in  
24        a manner that you feel is consistent with your  
25        current thought process, which was my argument that



1           you had a right to do, in setting the time period.

2           THE COURT: Let me just read you the  
3           pertinent --

4           MR. MARTIN: Yes, ma'am.

5           THE COURT: "No transcript of a deposition for  
6           which Pasco or Pinellas County may be obligated to  
7           expend funds shall be ordered by a party unless it  
8           is ordered by the court on a showing that the  
9           deposed witness is material or on showing of good  
10          cause."

11          MR. MARTIN: Yes.

12          THE COURT: That doesn't say the chief judge  
13          in that particular area; that says me.

14          MR. MARTIN: That's the administrative judge.  
15          And you might remember that I pointed that out to  
16          the Court. Because when we looked at the  
17          transcript and it says, "may be obligated."

18          Once Mr. Escobar argued that he's not filing  
19          them, and that was his intent from the very first  
20          day, then that came into play. And because "may be  
21          obligated", he should have done this from the  
22          getgo.

23          THE COURT: Okay.

24          MR. MARTIN: But now that all of those have  
25          been transcribed, they all should be filed.

1           THE COURT: Let me -- let me -- I stand  
2 corrected. Motions -- "Number 2: Motions to  
3 transcribe shall be filed in a timely manner and  
4 shall be heard by the applicable criminal  
5 administrative judge in Pinellas or the Pasco  
6 administrative judge or his or her designee."

7           So, you're right; it is by the administrative  
8 judge.

9           So I'll alter my order and you can file a  
10 request which depositions you wish to be filed upon  
11 good showing and Judge Crane can hear them.

12          Since we're --

13          MR. MARTIN: Judge, here's the problem is that  
14 Mr. Escobar, if he was going to take the position,  
15 "I'm never ever going to file them", which even  
16 according to his argument obligated the State to  
17 pay, if that was his position, he needed first to  
18 go -- this is another the horse is already out of  
19 the barn. They're already transcribed. And so --  
20 and since they're already transcribed, the original  
21 already exists.

22          THE COURT: Uh-huh.

23          MR. MARTIN: The original gets filed with the  
24 clerk so that -- you know, that's what transpires,  
25 Judge.

1           THE COURT: They're already transcribed  
2 because --

3           MR. MARTIN: He didn't follow the rule.

4           THE COURT: -- the Defense paid for them.

5           MR. MARTIN: No.

6           THE COURT: "No transcript of a deposition for  
7 which Pasco or Pinellas county may be obligated to  
8 expend funds." The county did not -- neither  
9 county, as far as I know, expended any funds to  
10 have those transcribed. So, yeah, what -- you  
11 know, it's a little different situation here. But  
12 if -- again, if you want me to interpret this  
13 entire AO, which is -- I've said it a million times  
14 already I didn't want to have to do that. But if  
15 you really want to get down to the plain language  
16 which you're trying to hold me to, then I'm going  
17 to deny entirely because that whole section doesn't  
18 apply. But if it's going to apply, then it's going  
19 to apply as we have it here.

20           Right, it's already been transcribed. Okay?  
21 But, technically, you know, they weren't any --  
22 weren't under any order to not do that.

23           What you're asking me is to make them file it.  
24 And you're asking me to make them file it under  
25 this AO where there's no plain language as far as a

1       time frame goes. So what you're asking me to do is  
2       stretch the AO a little bit to do a time frame.

3               Well, if I'm going to stretch it there, I'm  
4       going to stretch it here. So -- and I'm going to  
5       stretch it equally and it's all going to apply as  
6       equally as it can.

7               And here, "No transcript" is the language, but  
8       I'm going to stretch it a little bit and say that  
9       no filing of a deposition in this case will have to  
10      be done unless it's run by Judge Crane, the Pasco  
11      Administrative Judge or his or her designee, and  
12      with stating good cause as grounds, period. And I  
13      don't have to have a hearing. It can be ex parte  
14      or in camera as to that.

15              So I'm trying to be reasonable and rational  
16      and see the whole picture. I cannot pick and  
17      choose. You know, I've gone to the extent where  
18      the plain language of this AO is. It's all or  
19      nothing. I'm not going to pick and choose and  
20      stretch here and alter there if I'm not going to  
21      make it -- make the whole thing make sense.

22              So, you know, I'm not going to get -- I didn't  
23      want to be in this position as far as figuring out  
24      what this -- who this AO applies to. But since I'm  
25      being pressed and pressed and pressed to do so,

1       that's what I'm going to do. And I don't need to  
2       be reminded that that's not the plain language of  
3       the AO, but the plain language of the AO doesn't  
4       have any time limit at all.

5               So we'll either go with my suggested remedy or  
6       I'm going geeing to deny your request altogether.  
7       Because the AO doesn't say any time limit, so I'm  
8       not going to interpret one. That's the best I can  
9       go here. Either we're going to do a deposition by  
10      deposition request, which I or Judge Crane, whoever  
11      he designates, will look at and determine if it  
12      should be filed or I'm not going to order any time  
13      at all.

14             So that's the best I can do with this AO.

15             MR. MARTIN: And you're ruling is?

16             THE COURT: My ruling is that each -- whoever  
17      wishes for me to file -- for a transcript to be  
18      filed will submit a request with good grounds  
19      shown -- good cause shown. I will look at it or  
20      Judge Crane will look at it. I'll have --  
21      obviously according to the AO, it will go to Judge  
22      Crane. If he wishes to designate someone else to  
23      do so, he may do so according to the AO.

24             So somebody, Judge Crane or his designee, will  
25      look at it and rule accordingly. And if that

1 request is granted, then the filing will be due  
2 within 30 days.

3 MR. MARTIN: All right. And would the Court  
4 like to draft its own order or would you like for  
5 the State to draft the order?

6 THE COURT: I'd prefer for you to draft one.

7 MR. MARTIN: All right.

8 THE COURT: And just run it by --

9 MR. MARTIN: Madam Court Reporter, the last,  
10 whatever, five minutes when the Court said -- when  
11 I asked, what is the Court's ruling, the State is  
12 ordering that from that point on.

13 MR. ESCOBAR: Mr. Martin, I'm going to order  
14 the whole transcript. So ...

15 MR. MARTIN: All right. Well, that will be  
16 fine.

17 THE COURT: All right. Are there any other  
18 matters? This was set for a pre-trial.

19 MR. ESCOBAR: Your Honor, can I just make one  
20 statement? It's not going to involve much.

21 I just would like -- if they're going to go to  
22 Judge Crane for this procedure, I would just like  
23 Judge Crane to have the availability of the file,  
24 including my memorandum of law so that when he's  
25 looking at the whole process he can do so by having

1 a full scope of what we've decided here.

2 THE COURT: Okay. And that -- Judge Crane's  
3 involvement, of course, is pursuant to the AO.  
4 That says, "Shall be heard by the Applicable  
5 Criminal Administrative Judge in Pinellas County or  
6 the Pasco Administrative Judge." So ...

7 MR. ESCOBAR: I understand, Your Honor.

8 MR. MARTIN: Judge, may Mr. Escobar and I  
9 approach?

10 THE COURT: Certainly.

11 (BENCH CONFERENCE.)

12 MR. MARTIN: Judge, to be in all candor to the  
13 Court, Judge Crane and I have been very best  
14 friends for 30 years.

15 THE COURT: Oh.

16 MR. MARTIN: And I wanted to make sure that  
17 Mr. Escobar was aware of that.

18 Our children grew up together. We socialize.

19 THE COURT: Okay.

20 MR. MARTIN: Of course I don't practice in  
21 front of him because he is up here.

22 I believe that Judge Crane is very fair and he  
23 will administer regardless of the fact that I'm on  
24 the team. But in fairness to Mr. Escobar, I wanted  
25 to make sure that he was aware of that. It is on

1 the record that I've disclosed that.

2 THE COURT: Uh-huh.

3 MR. MARTIN: And that if he feels that Judge  
4 Crane should designate someone, regardless of who  
5 it is other than himself because of my involvement,  
6 I believe I'll leave that to Mr. Escobar. But I  
7 believe that Judge Crane is -- will be very, very  
8 fair. But I will have to tell everyone that I have  
9 not practiced in front of him since he's been on  
10 the bench.

11 THE COURT: Uh-huh.

12 MR. ESCOBAR: Judge, I don't have any doubt  
13 that Judge Crane is going to be -- interpret the  
14 law and follow it.

15 THE COURT: Correct.

16 MR. MARTIN: Okay. I wanted to make sure that  
17 all the parties knew.

18 THE COURT: Okay. And I appreciate that  
19 disclosure. Thank you.

20 MR. MARTIN: All right. Thank you.

21 THE COURT: Thanks.

22 (OPEN COURT.)

23 THE COURT: Okay. As far as the pre-trial  
24 matters.

25 MR. ESCOBAR: Judge, I can give you a recap,



1 if that will make it easier.

2 Since you're brand new to this case, let me  
3 just recap. I've tried to set some high points for  
4 the Court. Judge Siracusa had previously issued a  
5 directive to us of some dates that we were trying  
6 to comply with. One is -- there's, I think, a  
7 tentative date for an immunity motion in this  
8 particular hearing -- for an immunity motion in  
9 this case on November the 16th of 2015.

10 THE COURT: Correct. And as I recall that is  
11 scheduled for two days.

12 MR. MARTIN: It's scheduled for two days.

13 THE COURT: The 16th, 17th, maybe even three  
14 days.

15 MR. GARCIA: Three days, Judge.

16 MR. ESCOBAR: Three days.

17 THE COURT: Right. Okay. Through the 18th.  
18 16th through the 18th.

19 MR. ESCOBAR: We are -- there's a directive  
20 for us to file our immunity motion by October the  
21 16th.

22 THE COURT: Uh-huh.

23 MR. ESCOBAR: And there's a directive for us  
24 to provide the expert witnesses that we have to  
25 date on this case by September the 11th.

1           Let me give the Court a little rundown of what  
2 we've done in this case.

3           There were a total of 131 witnesses in this  
4 case. We have deposed all of them with the  
5 exception of 12 individuals. Eight of which we  
6 haven't started the deposition, four of those 12 of  
7 which we've started the depositions, but because of  
8 getting discovery at the depositions and getting  
9 photographs at the depositions and getting reports  
10 at the depositions, we had to continue those  
11 depositions. Those four witnesses that we have  
12 started the depositions are: Proctor, Weyland,  
13 Pacheco, and Pepenella. So we are very close to  
14 hopefully completing the depositions in this  
15 particular case.

16           Like I said, we've got eight individuals, Your  
17 Honor. And most of those individuals were not able  
18 to be deposed because they were out of state; they  
19 were going to be back in town in August. And, so,  
20 those have all been scheduled.

21           We've got everyone scheduled with the  
22 exception of Proctor in a time slot. The reason  
23 that we have not scheduled the second part of  
24 Proctor is the following: When Mr. Martin took  
25 over this case, I guess after his evaluation of

1       this case, he indicated to me that there was going  
2       to be a reinvestigation of this matter. I was,  
3       frankly, rather shocked that after a year and seven  
4       months that we were now going to investigate this  
5       case anew, but, certainly, that's his right. And  
6       he indicated to me that they were going to do now a  
7       whole lot of things, including they had a forensic  
8       video expert that we started to depose. He's  
9       indicated now that they're not going to use him  
10      anymore, that they're going to be getting another  
11      video expert.

12             And, so, I tell the Court that because it is  
13      extremely important for my experts, many of my  
14      experts, for us to have all of the investigation  
15      completed so that my experts can be privy to all  
16      that information before they form any opinions.

17             Now, there are certain experts that I'm going  
18      to be able to give them that their investigation is  
19      really not going to matter much. Their opinions  
20      are going to be their opinions based upon a set of  
21      facts and a set of documents. But there are other  
22      experts that I can tell you are going to need  
23      whatever investigation he's going to complete to be  
24      turned over to the Defense so that they can  
25      consider those issues and then modify or adjust

1       their opinions.

2               I will tell the Court that by the 11th of  
3       September, I will provide all of my expert  
4       witnesses that I have to date with the exception of  
5       one, and that is my expert -- my forensic expert  
6       concerning the phone in this particular case. The  
7       reason being, Pepenella just provided me some more  
8       information concerning his search of the phone. We  
9       have got to get my expert down here to now download  
10      the actual phone itself, under the perimeters of  
11      Judge Siracusa, and then he'll be able to be listed  
12      with his opinion. And, so, his name I am not going  
13      to be able to give by September the 11th. But  
14      Mr. Martin knows that I've got a forensic expert  
15      that's going to be dealing with the phone issue as  
16      his expert, Mr. Pepenella.

17             Other than that, Your Honor, I think that, you  
18      know, we're proceeding quite good in this case. I  
19      don't know -- and I wanted the Court to understand,  
20      I don't know what they're doing, but whatever  
21      they're doing, I want this Court to understand that  
22      I'm going to need to get that in my hands  
23      relatively soon so that I can meet some of these  
24      other objectives that we had set out before Judge  
25      Siracusa.

1 THE COURT: State?

2 MR. GARCIA: Judge, may it please the Court.

3 In addition to Judge Siracusa's directive back  
4 on June 30th of this year, he also indicated that  
5 Mr. Escobar was to disclose on September 11th the  
6 defendant's medical records -- any and all medical  
7 records from the defendant, as well as a waiver of  
8 confidentiality from the defendant so that, in  
9 light of that, we can take the depositions of the  
10 doctors or whoever they're going to list in  
11 conjunction with the medical records.

12 MR. ESCOBAR: Judge, I disagree. And we'll  
13 get that transcript. I think we've got that  
14 transcript.

15 Judge Siracusa did not say that I was to list  
16 any and all medical doctors of Mr. Reeves and that  
17 I was to get any type of waiver. If I have a  
18 particular expert and, you know, those records that  
19 the expert is going to use, there's a waiver as to  
20 those particular records. But there is no order  
21 carte blanche that I'm supposed to turn over every  
22 doctor that Mr. Reeves has seen and every medical  
23 record of Mr. Reeves. That was not in any order.

24 MR. GARCIA: Judge, I have the transcript.  
25 And I would ask the Court -- or invite the Court to

1 Page 18 of the transcript of the court from the  
2 June 30th hearing, starting on Line 15.

3 MR. ESCOBAR: I don't have that.

4 THE COURT: Okay.

5 MR. GARCIA: And the Court says:

6 "Okay. So by September 11th then -- easily  
7 memorable day -- by September 11th, I can have your  
8 firm commitment and I will put in an order that you  
9 would disclose the names of your experts and any  
10 medical records of the defendant that you intend to  
11 use."

12 MR. ESCOBAR: Oh, yeah.

13 MR. GARCIA: Correct.

14 MR. ESCOBAR: That's not a problem. It's  
15 those medical records. I thought he had indicated  
16 all medical records of Mr. Reeves.

17 MR. GARCIA: No. Whichever --

18 MR. ESCOBAR: Oh, yeah.

19 MR. GARCIA: Yeah. Whichever they intended on  
20 using.

21 MR. ESCOBAR: Oh, yeah. That's not a problem.

22 THE COURT: All right. And I'm kind of new to  
23 this, obviously. How -- where's the relevance of  
24 Mr. Reeves's medical records?

25 MR. GARCIA: Judge, I assume that they're

1 going to argue that his infirmities, whether or  
2 not -- you know, whatever his ailments were and  
3 that's why they're going to disclose those medical  
4 records to us.

5 THE COURT: Okay.

6 MR. GARCIA: And obviously the self defense,  
7 the stand your ground, in conjunction with all of  
8 those.

9 THE COURT: All right. Then, of course, there  
10 it is. That's typical of any request. If you  
11 intend to use something, you have to disclose it.

12 MR. ESCOBAR: Yeah.

13 THE COURT: So in this case it will be by  
14 September 11th.

15 MR. ESCOBAR: (Nodding head.)

16 THE COURT: All right. Any other -- so far so  
17 good. We're on track for all of those deadlines.  
18 I'm assuming, if we're not, when those days come to  
19 pass, we'll need to address that. I'm sure  
20 whoever's not in compliance, the other party will  
21 bring to it my attention.

22 MR. ESCOBAR: (Nodding head.)

23 THE COURT: All right. Are there any other  
24 matters that we need to address?

25 MR. MARTIN: Other than the pre-trial, Judge.

1 THE COURT: Okay.

2 MR. MARTIN: Whatever.

3 THE COURT: Yeah.

4 MR. GARCIA: Judge, we have a scheduled  
5 pre-trial on October 23rd, at 3:00. It's on a  
6 Friday. And Mr. Escobar, I don't know if he  
7 indicated, they are to file the immunity motion by  
8 October 16th.

9 THE COURT: All right. I don't see any need  
10 for an intervening pre-trial so shortly before our  
11 scheduled stand your ground hearing, which would  
12 only be two weeks following that or less. But I  
13 will certainly reserve that date in the event that  
14 the motion is not filed. But I'm not inclined to  
15 have another pre-trial there. Unless something's  
16 not done, we really wouldn't have much to talk  
17 about.

18 MR. MARTIN: Judge, the only thing that I  
19 would ask the Court to do, like you said, if you  
20 would keep it open.

21 THE COURT: Uh-huh.

22 MR. MARTIN: And not only for the pre-trial,  
23 but all pending motions that would be relevant for  
24 the hearing that either party would like heard  
25 prior to the start of the hearing so that the



1 hearing goes very smoothly.

2 THE COURT: All right.

3 MR. MARTIN: If there are no motions, then, of  
4 course, we can let the Court know that. But I  
5 would anticipate that there would be motion  
6 practice that would probably need to take place so  
7 we can have a very smooth hearing.

8 THE COURT: My concern is that that's in my  
9 trial weak. Obviously I wasn't a party to setting  
10 that that day. From the looks of things, I -- what  
11 time was that set?

12 MR. GARCIA: Three o'clock, Judge. It's a  
13 Friday afternoon.

14 THE COURT: All right. The trials that I have  
15 set that week I would think would be completed by  
16 then or at least the jury would be out deliberating  
17 around that time, the worst case scenario.

18 So I will certainly -- I can guarantee you  
19 nothing else will be set at that time, but I can't  
20 guarantee that I will not have a jury out or, you  
21 know, where we'll be in trial. But I will  
22 certainly do my best.

23 MR. GARCIA: Judge, do we have any scheduled  
24 murders that week?

25 THE COURT: Yes. Sean Stewart with

1 Mr. Goettel, second degree.

2 MR. GARCIA: Okay. That's the only one,  
3 though.

4 THE COURT: It's a redo. So ...

5 MR. GARCIA: Right.

6 THE COURT: That's the only one I have.

7 MR. GARCIA: Okay.

8 THE COURT: There is a first-degree robbery  
9 also, but I don't -- I don't know if that's  
10 realistic.

11 MR. GARCIA: Okay.

12 THE COURT: But that one certainly is.

13 All right. So if needed, October 23rd, at  
14 3:00 will be our next meeting. If there are no  
15 motions needed to be heard, we will forego that  
16 date and have a pre-trial on the first day of our  
17 scheduled stand your ground motion.

18 MR. ESCOBAR: Thank you, Your Honor.

19 THE COURT: All right. Thank you, everybody.

20 (Proceedings concluded.)

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STATE OF FLORIDA     )  
                              )  
COUNTY OF PASCO     )

I, Victoria L. Campbell, Registered  
Professional Reporter, certify that I was authorized  
to and did stenographically report the foregoing  
proceedings and that the transcript is a true  
record.

DATED this 1st day of September, 2015.

  
Victoria L. Campbell, RPR