

STATE OF FLORIDA,

v.

BRENAN HILL.
_____ /

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

CASE NO.: 2021-CF-000596

AMENDED MOTION FOR NEW TRIAL

(As to Certificate of Service Only)

Defendant, Brenan Hill, by and through the undersigned attorney, pursuant to Rule 3.600 Florida rules of criminal procedure request this Honorable court to grant a new trial in this cause. The Defendant is charged by an Amended Information with three counts alleging the death of an individual with the use of a firearm, intentional battery with a firearm, and shooting a firearm into a vehicle. As grounds in support of this motion, Defendant states the following:

1. The verdict is contrary to law or the weight of the evidence. The evidence was nonexistent as to the Defendant's state of mind at the time of the shooting on March 26, 2021. The evidence was nonexistent which would have allowed the prosecutor to argue facts in support of second degree murder.
2. Denial of the defendant's motion for judgment of acquittal
3. The verdict form should not have included lesser included offenses. The verdict form should have been limited to the killing of the victim.
4. Not allowed to cross examine witnesses on statements they had previously made by sustaining objections as hearsay.
5. Not allowing the defendant's attorney to demonstrate the accidental propensity of the weapon so that the jury would understand the defense regarding accidental decocking.
6. Not allowing the jury to see the injury on the defendant's hand up close which caused him to mishandle the hammer and trigger while manually decocking the firearm which caused an accidental shooting.
7. Denial of the motion to suppress regarding the interrogation of the Defendant after he had engaged the services of an attorney.
8. Allowing illegal non-consensual recordings of the Defendant's by the victim contrary to the laws of Florida

9. Improper closing argument of the Prosecution testifying to the position of victims head when shot.
10. Allowing hearsay recordings or written texts of the victim to other persons.
11. Allowing the witness to testify that it appeared that the defendant was arguing with the victim when there was no evidence to support that conclusion.
12. The gun expert presented by fdle falsely testified that the semi-automatic weapon could not be manually decocked.
13. Not allowing the Defendant's attorney to inquire at voir dire as to prospective jurors' knowledge of firearms.
14. juror was guilty of misconduct by refusing to want to be involved in the gruesome photos videos and facts introduced as evidence.
15. Multiple Videos of the defendant in an extremely distraught emotional state being questioned by investigators which contributed to the jury being misdirected from the lack of evidence and focusing on the untruthfulness of the defendant and causing an extreme dislike of the defendant which overcame the jury's ability to evaluate the guilt or innocence of the defendant.
16. The evidence, photos, videos, communications and or testimony will be used to suggest that the Defendant had the propensity to commit the instant charges or for the sole purpose of inflaming the jury's decision process. intended to have probative value in any material fact at issue. The intended testimony, communications and or evidence is being used for the sole purpose to show the bad character of the Defendant and to distort the jury's ability to decide a fair and impartial verdict.
17. The single and or multiple prior acts did not involve the firing of a firearm.
18. The multiple prior bad acts were more prejudicial than probative to the issues and accusations within the amended information filed in this cause.
19. The prior bad acts were not relevant or similar to the charges being tried in this cause.
20. The evidence presented by the State should have not been admitted since any probative value was substantially outweighed by the unfair prejudice, confusion of issues, and misleading to the jury.
21. Several situations presented needless presentation of cumulative evidence.

22. The communications mostly involve speculation and not based on fact.
23. The presentation of the evidence by the State of prior bad acts was used to prove the Defendant's actions represented a trait of his character and was not necessary to prove evidence of the crime, proof of motive, opportunity, intent, preparation, plan knowledge identity, or absence of mistake or accident.
24. The introduction of the evidence and testimony presented by the State transcended the bounds of relevancy and in fact were designed and became the feature of the trial.
25. Allowing excessive unnecessary photographs of the deceased's body and portions of the brain.
26. The rebuttal testimony presented at trial was contrary to the recorded statement of the Defendant which was not presented to the

WHEREFORE, based on the foregoing Substantial rights of the defendant were prejudiced the Defendant prays this Honorable Court will grant a new trial in this cause.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to Melissa Clark, ASA via electronic service this 27th of September 2023.

Respectfully submitted,

S/ Gerald S. Bettman
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