IN THE CIRCUIT COURT OF
THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR UNION COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

CASE NO.: 63-2014-CF-000080-A

vs.

ANGEL SANTIAGO-GONZALEZ,

Defendant.

SENTENCING ORDER

The Defendant, Angel Santiago-Gonzalez, was indicted for one count of First Degree Murder by the Union County Grand Jury on November 24, 2014, for the death of Donald Burns.

On January 15, 2015, the State filed its Notice of Intent to Seek the Death Penalty.

On August 15, 2016, the Defendant entered an open plea of guilty to the charge of First Degree Murder as alleged in the Indictment.

After considerable discovery and motion practice, the Defendant chose for his penalty phase to be conducted as a bench trial. The penalty phase was held between February 5, 2018, and February 27, 2018. As a result of the penalty phase being a bench trial, a *Spencer* hearing was conducted concurrently with the bench trial.

FACTS

On January 9, 2014, at approximately 9:40 p.m., the Defendant, an inmate at the Reception and Medical Center, in Union County, Florida, tied up his cell mate of six hours, Donald Burns, and then repeatedly stabbed him with a homemade knife he had in his possession. The Defendant and victim Donald Burns had previously been housed together at Santa Rosa Correctional Institution;

and, were familiar with each other prior to this incident.

When correctional officers approached the cell, the Defendant was covered in blood; and, the victim, Donald Burns, was lying on the ground, hands and feet bound, in a large pool of his own blood. According to the officers, the Defendant appeared calm when they engaged with him, as reflected by his request that they bring a camera to the cell and record the incident before he would turn over the knife to them. They additionally noted that the Defendant was compliant and offered no resistance at the time that they removed him from the cell.

After the victim was removed from the cell, and was in the process of being transported to medical, he stated to Captain Mark Ficken that: (a) he had allowed the Defendant to tie him up (however, he also stated that the Defendant had held him down); (b) once he had been tied up, the Defendant tried to rape him; (c) the Defendant stabbed him out of spite; and, (d) he did not want his mother to know what had happened in the cell. While providing this information to Captain Ficken, the victim expressed his realization that that he had suffered fatal injuries and that he was going to die.

During his interview with the inspectors general shortly after the murder, the Defendant told them that he asked to be placed in the cell with the victim so that the victim could help him with his legal paperwork. At some point later, after he was in the victim's cell, the victim touched him on his bare buttocks while having an erect penis, causing him to be blinded by rage because of the victim's status as a sexual predator of male children, at which point he beat the victim unconscious and bound him with torn sheets. The Defendant then stabbed the victim at least 64 times in his neck, chest, and

abdomen over the course of several minutes. According to the Defendant during the interview, he wanted to punish the victim, and see him suffer, for his crimes against children; and, to prevent him from offending against other children in the future by killing him. At all times during his interview, the Defendant was respectful and polite towards the inspectors, although at times he appeared agitated and upset by what had occurred. Defendant did not indicate that he had any injuries; and, a medical examination which was conducted on him after the incident did not uncover any injuries.

Dr. Laurence Lottenberg, the trauma surgeon who treated the victim in the emergency room, testified during the trial that the victim's pain level during the period after the incident was a ten out of ten; and, that the victim's entire blood volume had to be replaced approximately ten times. To manage the pain that he was experiencing, the victim had to be given Oxycodone, Fentanyl, and Morphine. Besides being in immense pain, during one of his surgeries, the victim experienced a severe stroke which substantially affected his mobility. In addition, due to the injuries that he received to his spinal cord, the victim was left as a quadriplegic. After five and a half months in the hospital, the victim succumbed to his wounds from the stabbing.

The Court has heard and considered the evidence presented at the penalty phase trial, and considered the sentencing memoranda submitted by the State and the defense. The Court now addresses the evidence of aggravating and mitigating circumstances presented in this case:

AGGRAVATING CIRCUMSTANCES

I. THE CAPITAL FELONY WAS COMMITTED BY A PERSON PREVIOUSLY CONVICTED OF A FELONY AND UNDER SENTENCE OF IMPRISONMENT OR PLACED ON COMMUNITY CONTROL OR ON FELONY PROBATION. § 921.141(6)(a), FLA. STAT. (2017).

The unrefuted testimony and evidence presented during the penalty phase trial established that the Defendant was under multiple sentences of imprisonment in the Florida Department of Corrections at the time of the murder. Furthermore, it is undisputed, as reflected by the stipulation between the parties signed by the Defendant, that the Defendant was serving multiple sentences of life imprisonment.

The Court finds that this aggravating circumstance has been proven beyond a reasonable doubt and it is given great weight.

II. THE DEFENDANT WAS PREVIOUSLY CONVICTED OF ANOTHER CAPITAL FELONY OR OF A FELONY INVOLVING THE USE OR THREAT OF VIOLENCE TO THE PERSON. § 921.141(6)(b), FLA. STAT. (2017).

"Qualitatively, [the] prior violent felony [aggravator is one of] the weightiest aggravators set out in the statutory sentencing scheme." *Hodges v. State*, 55 So. 3d 515, 542 (Fla. 2010). As mentioned under the previous aggravator, the unrefuted testimony and evidence presented during the penalty phase trial established that the Defendant was under multiple sentences of life imprisonment in the Florida Department of Corrections at the time of the murder. The Defendant's prior convictions include multiple robberies, including multiple robberies with a firearm. The offense of robbery involves violence *per se*. *Johnson v. State*, 442 So. 2d 193, 197 (Fla. 1983). Any attempt to commit this crime inherently involves the threat of violence. *Id.* Here, not only has the Defendant previously been convicted of robbery, but during one of his armed robberies, the Defendant shot the victim in the abdomen while taking her necklace.

The Court additionally notes that during his prior escape offense, the Defendant had his co-

defendant, a correctional officer, bring a firearm into the Seminole County jail, which he used to kidnap and rob another correctional officer in an attempt to facilitate his escape.

The Court finds it to be significant that the Defendant either used or threatened to use a firearm during many of his prior offenses. However, because the Defendant's prior violent felony offenses do not reflect the level of violence used in this case, this aggravator is only being given great weight.

The Court finds that this aggravating circumstance has been proven beyond a reasonable doubt and it is given great weight.

III. THE CAPITAL FELONY WAS ESPECIALLY HEINOUS, ATROCIOUS, OR CRUEL. § 921.141(6)(h), FLA. STAT. (2017).

The heinous, atrocious, or cruel (HAC) aggravating factor applies in physically and mentally torturous murders which can be exemplified by the desire to inflict a high degree of pain or utter indifference to or enjoyment of the suffering of another. *Barnhill v. State*, 834 So. 2d 836, 849–50 (Fla. 2002) (citing *Williams v. State,* 574 So.2d 136 (Fla.1991)). HAC focuses on the means and manner in which the death is inflicted and the immediate circumstances surrounding the death, rather than the intent and motivation of a defendant, where a victim experiences the torturous anxiety and fear of impending death. *Id.* (citing *Brown v. State,* 721 So.2d 274, 277 (Fla.1998); *see also Francis v. State*, 808 So. 2d 110, 134 (Fla. 2001) ("For HAC to apply, the crime must be conscienceless or pitiless and unnecessarily torturous to the victim."). The HAC aggravator has been repeatedly upheld where, as here, the victim was repeatedly stabbed and remained conscious during and after the attack. *Davis v. State*, 859 So. 2d 465, 478 (Fla. 2003) (citing *Francis,* 808 So.2d at 134–35). The fear and

emotional strain preceding the death may also be considered as contributing to the heinous nature of the crime. *Id.*

The evidence in this case reflects that the victim was stabbed at least 64 times while conscious and with his hands and feet bound. After the stabbing, the victim remained conscious for several minutes, in extreme pain, and acutely aware of the fatal nature of his wounds, as evidenced by the hopelessness in his statements to Nurse Dukes and Captain Ficken. Moreover, the Defendant refused to allow correctional officers into the cell to help the victim until they began recording the aftermath of the incident, thereby prolonging the victim's pain and suffering as he laid bound in a pool of his own blood. Both during and after the merciless attack, the victim was faced with the reality that his death was imminent. And, the Defendant was totally indifferent to the victim's suffering.

The Court finds that this aggravating circumstance has been proven beyond a reasonable doubt and it is given very great weight.

IV. THE CAPITAL FELONY WAS A HOMICIDE AND WAS COMMITTED IN A COLD, CALCULATED, AND PREMEDITATED MANNER WITHOUT ANY PRETENSE OF MORAL OR LEGAL JUSTIFICATION. § 921.141(6)(i), FLA. STAT. (2017).

For a cold, calculated, and premeditated (CCP) aggravator to be justified, it must meet a four-part test: (1) the killing must have been the product of cool and calm reflection and not an act prompted by emotional frenzy, panic, or a fit of rage (cold); (2) the defendant must have had a careful plan or prearranged design to commit murder before the fatal incident (calculated); (3) the defendant must have exhibited heightened premeditation (premeditated); and, (4) there must have

been no pretense of moral or legal justification. *Lynch v. State*, 841 So. 2d 362, 371 (Fla. 2003) (citing *Evans v. State,* 800 So.2d 182, 192 (Fla.2001)).

This aggravating circumstance pertains specifically to the state of mind, intent, and motivation of the defendant, and involves a much higher degree of premeditation than that required to prove first-degree murder. *Brown v. State*, 143 So. 3d 392, 402 (Fla. 2014) (citing *Wright v. State,* 19 So.3d 277, 298 (Fla.2009); *Deparvine v. State,* 995 So.2d 351, 381–82 (Fla.2008)). To support a finding of CCP, the evidence must establish beyond a reasonable doubt that the defendant planned or prearranged to commit murder before the crime began. *Id.* (citing *Williams v. State,* 37 So.3d 187, 195 (Fla.2010)). The aggravating factor can be established by circumstances demonstrating advance procurement of a weapon, lack of resistance or provocation by the victim, and the appearance of a killing carried out as a matter of course. *Id.* (citing *Franklin v. State,* 965 So.2d 79, 98 (Fla.2007)).

Here, the Court is satisfied beyond and to the exclusion of any reasonable doubt that the murder of the victim, Donald Burns, by the Defendant was the product of a careful plan created with calm reflection and heightened premeditation without any pretense of moral or legal justification. The testimony and evidence establish that on January 9, 2014, the Defendant was housed near the victim in the Reception and Medical Center in Union County, Florida. Having been housed with the victim before at Santa Rosa Correctional Institution, the Defendant knew the victim was a sex offender who was in prison for crimes against male minors. At approximately 3:30 p.m., the Defendant was able to manipulate one of the correctional officers into placing him in the victim's cell under the pretense of having the victim assist him with his legal paperwork. For the next six

hours, the Defendant and the victim cleaned their cell. At some point, the Defendant either convinced the victim to allow himself to be tied up or forced him to be tied up using the bed sheets which the Defendant had torn into pieces for that purpose. Once the victim was tied up, and under control, the Defendant then removed the blindfold and began stabbing the victim with the homemade knife which the Defendant admittedly brought with him when he was transferred into the victim's cell. There is no evidence that prior to the stabbing the victim either expected to be stabbed or had an opportunity to fend off the attack. The Defendant had complete control over his environment in the cell from start to finish; and, he acted to kill the victim with a level of precision consistent only with a planned design.

The Court does not believe the Defendant's self-serving statement that the stabbing was the result of a provocation by the victim given that the victim's body had no defensive wounds or signs of a struggle. Nor was there sufficient evidence that the Defendant beat the victim into unconsciousness prior to the stabbing.

As for the Defendant's argument that he had an imperfect pretense or moral or legal justification, the Court finds no legal support for that argument. "[A] pretense of legal or moral justification is defined as 'any colorable claim based at least partly on uncontroverted and believable factual evidence or testimony that, but for its incompleteness, would constitute an excuse, justification, or defense as to the homicide.'" *Jackson v. State*, 25 So. 3d 518, 534 (Fla. 2009) (quoting *Salazar v. State*, 991 So. 2d 364, 376–77 (Fla. 2008)). Here, even if the Court were to believe that the victim made some form of verbal or physical sexual advance on the Defendant, that

act alone would not legally justify him to kill the victim, particularly a victim whom he had tied up and was in no manner a threat to him.

he Court finds that this aggravating circumstance has been proven beyond a reasonable doubt and it is given very great weight.

MITIGATING CIRCUMSTANCES

I. THE CAPITAL FELONY WAS COMMITTED WHILE THE DEFENDANT WAS UNDER THE INFLUENCE OF EXTREME MENTAL OR EMOTIONAL DISTURBANCE. § 921.141(7)(b), FLA. STAT. (2017).

This mitigating circumstance applies to defendants whose mental condition at the time of the murder was less than insanity but more than the emotions of an average man, which may have interfered with, but not obviated, his knowledge of right and wrong. *Perri v. State*, 441 So. 2d 606, 609 (Fla. 1983). A defendant may be legally answerable for his actions and legally sane, and even though he may be capable of assisting his counsel at trial, he may still deserve some mitigation of sentence because of his mental state. *Id.*

Defense psychologist, Dr. Steven Gold, testified that the Defendant's was under the influence of extreme mental or emotional disturbance at the time of the murder. In addition, the Defendant expressed a feeling of blacking out during his crime. However, the Defendant's description of the act itself is not consistent with him losing control. To the contrary, the Defendant deliberately and methodically tore up the bed sheets which were used to bind the victim, in the victim's presence, then took off the blindfold that he had placed over the victim's eyes so that the victim could see what was happening while he was being repeatedly stabbed and viciously stabbed. The Defendant sought

to punish the victim for crimes against children and his status as a sex offender.

Notably, the Defendant waited until there were no correctional officers around to begin his tying the victim up and attacking him. And, although wound up by the act itself, the Defendant had stopped stabbing the victim prior to the officers' arrival at the cell; and, was rational and goal-directed when the officers approached the cell, offering to turn over the knife if the officers recorded their entry into the cell. When interviewed, the Defendant had a logical explanation for his actions, that being his claim that he was touched on the buttocks by the victim. To the extent that the Defendant may have lost himself in the moment while stabbing the victim, the stabbing was neither spontaneous nor the immediate response to an act of provocation by the victim. The murder was a deliberate act done with a sense of clear purpose. And, after it was done, the Defendant wanted to clean the victim's blood off of himself. Thus, although there is evidence that the Defendant was in a heightened emotional state at the time of the offense, there is no evidence that this emotional state rose to the level of an extreme mental or emotional disturbance.

The Court finds that this mitigating circumstance has not been proven.

II. THE CAPACITY OF THE DEFENDANT TO APPRECIATE THE CRIMINALITY OF HIS CONDUCT OR TO CONFORM HIS CONDUCT TO THE REQUIREMENTS OF LAW WAS SUBSTANTIALLY IMPAIRED. § 921.141(7)(f), FLA. STAT. (2017).

Defense psychologist, Dr. Steven Gold, testified that the Defendant's capacity to appreciate the criminality of his conduct to the requirements of law was substantially impaired at the time of the murder. However, there is no evidence in this case, other than that conclusion, that the Defendant's ability to conform his conduct was impaired or that he did not know that killing the victim was

wrong. *Pardo v. State*, 563 So. 2d 77, 80 (Fla. 1990). Although the Defendant has an extensive mental health history, there is no evidence that was not thinking clearly before, during, or immediately after his offense.

The Court finds that this mitigating circumstance has not been proven.

III. THE DEFENDANT SUFFERS FROM SEVERE DEVELOPMENTAL TRAUMA

Although the evidence presented during the penalty phase established that the Defendant had traumatic experiences during his childhood, there is insufficient evidence that the Defendant suffers from severe developmental trauma.

The Court finds that this mitigating circumstance has not been proven.

IV. LUIS LLORENS TORRES CASERIO

Luis Llorens Torres Caserio is a massive government housing project in the metropolitan area of San Juan, Puerto Rico. It is also the area in which the Defendant spent his formative years as a child; and, the area in which his family currently lives and has lived. During the penalty phase, the Court heard and saw a spectrum of testimony and evidence that painted a clear and distinct portrait of Luis Llorens Torres Caserio as an impoverished, violent narco-economic community, at least during the time period that the Defendant was living there.

Dr. Audrey Winpenny, an urban ethnographer who has studied the culture of Luis Llorens Torres Caserio, testified during the penalty phase trial that in the early 1990's, when the Defendant lived there, Luis Llorens Torres Caserio was a "war zone." If the government needed to enter the community, or to extract someone from it, it was required to use overwhelming force so as to prevent

or counteract any responsive force from the community opposing the governmental intrusion. Dr. Winpenny described the community as "as a law unto themselves," meaning that they had their own internal justice system ("voz y voto" or "a voice and a vote"). She noted that community justice was particularly harsh for rapists, especially child rapists; and, gave examples of child rapists being dismembered or so butchered in the face that their families could not give them an open casket funeral. The Defendant's cousin, Harry Agosto, also testified to the fact that child rapists were dealt with brutally in the community, including in the jails, and would be dismembered if caught or discovered.

Dr. Winpenny further testified as to the horrid conditions of the public schools and juvenile detention facilities in Puerto Rico at the time that the Defendant was growing up. However, none of this testimony was specific enough to the Defendant so as to give any weigh to it.

Alexander Hernandez, a person who grew up with the Defendant in Luis Llorens Torres Caserio, testified that between birth and when he left Puerto Rico at 17 years of age, his daily life was permeated with drug activity, death, and violence. Mr. Hernandez described an individual nicknamed Chula Bruja, whom both he and the Defendant knew growing up, who had a reputation for being a child rapist. It was alleged by other testifying witnesses, although it has been denied by the Defendant, that Chula Bruja raped the Defendant when the Defendant was very young.

Mitigation specialist Betty Fuentes, as well as members of the Defendant's immediate family, also provided a stark description of Luis Llorens Torres Caserio.

Although not directly related to Luis Llorens Torres Caserio, City of Gainesville Police

Officer Lionel Ortiz, who previously worked as a police officer in Puerto Rico, testified that sex offenders were frequently killed in prison and in jail, often by being dismembered.

It is clear from the evidence that the Defendant's experiences growing up in the Dickensian environment of Luis Llorens Torres Caserio have profoundly negatively impacted him and how he engages with the world. To the extent that the Defendant is a product of that environment, the Court finds this mitigator to be the most significant and established among which were those presented during the course of his penalty phase trial.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it moderate weight.

V. THE DEFENDANT WAS THE PRODUCT OF STATUTORY RAPE

It was established by the evidence that at the time of his conception, the Defendant's father was 26 years of age and his mother was 14 years of age. However, there is no evidence that this mitigating factor affected the Defendant during either his childhood or his adulthood. Nor is there any evidence that this mitigator is related to the reasons why the Defendant committed the murder of the victim in this case.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

VI. THE DEFENDANT'S FATHER WAS ABSENT

This mitigating factor has been established by the evidence. However, there is no connection between this mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

VII. THE DEFENDANT'S MOTHER WAS INTELLECTUALLY DISABLED

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant's mother, Nilda, is intellectually disabled; had no more than a third-grade education; and, dropped out of school when she was 12 years of age. However, there is no connection between this mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

VIII. THE DEFENDANT'S MOTHER'S IMPAIRED PARENTING SKILLS

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant's mother, Nilda, was not a fit parent. However, there is no connection between this mitigator and the Defendant's murder of the victim because, among other things, the Defendant only spent a brief period in her custody. The Defendant's childhood was spent being raised by his grandparents and his aunts.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

IX. THE DEFENDANT'S MOTHER ABANDONED HIM

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant's mother, Nilda, abandoned him. This abandonment by his mother

was extraordinarily traumatic for the Defendant, causing him, even to this day, to feel unloved and worthless. However, given the tenuous connection between this mitigator and the Defendant's murder of the victim, it is being given little weight.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it little weight.

X. THE DEFENDANT'S GRANDFATHER WAS VIOLENT AND ABUSIVE

This mitigating factor has been established by the evidence. However, there is no connection between this mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XI. THE DEFENDANT'S GRANDFATHER WAS A PEDOPHILE

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant's grandfather, Ignacio, sexually abused his female children. However, there is no connection between this mitigator and the Defendant's murder of the victim. There is no evidence that the Defendant was aware of the sexual abuse of his aunts by his grandfather when they were young. Nor is there any evidence that the Defendant himself experienced or observed any such molestation while he was living in his grandparents' home.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XII. THE DEFENDANT'S GRANDMOTHER FAILED TO PROTECT CHILDREN

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant's grandmother, Aurora, provided no structure or discipline in her home. However, there is no connection between this mitigator and the Defendant's murder of the victim. Although she did little more than feed and house him, the Defendant deeply loved his grandmother and felt loved by her. And, there is no evidence that the Defendant was traumatized by his grandmother's failures or blamed her for the brutality of his childhood. To the contrary, the Defendant saw his grandmother as an island in the chaos of his childhood environment, despite her being incapable of providing him with adequate protection and direction.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XIII. THE DEFENDANT'S SEXUAL ABUSE IN THE LLORENS COMMUNITY

This mitigating factor has been established by the evidence; and, is being considered in conjunction with the Luis Llorens Torres Caserio mitigator. Although the Defendant denies the sexual abuse, and there is some dispute amongst the experts as to whether it did occur and to what extent, based on the testimony and evidence from the Defendant's family presented during the penalty phase, the Court finds that there is sufficient evidence in the record to support the determination that the Defendant was sexually abused, even if only a limited number of times, while living in the Luis Llorens Torres Caserio by the person known as Chu la Bruja, who was a friend of the Defendant's grandfather.

The Court finds that this mitigating circumstance has been proven by the greater weight of the

evidence and gives it moderate weight.

XIV. THE DEFENDANT'S EARLY DRUG USE

This mitigating factor has been established by the evidence. The Defendant began abusing controlled substances, and huffing paint thinner, at a very early age as a coping mechanism for the brutality of his childhood environment. However, there is no connection between this mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XV. THE DEFENDANT'S LACK OF CHILDHOOD HEALTH

This mitigating factor has been established by the evidence. The Defendant was severely malnourished and physically neglected as a child. However, there is no connection between this mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XVI. THE DEFENDANT'S MENTAL ILLNESS AS A CHILD

This mitigating factor has been established by the evidence. As reflected by his childhood medical records, and the testimony of his family, the Defendant suffered from mental illness as a child, which manifested in self-harm and self-destructive behaviors, many of which still affect him to this day. However, the Defendant's self-harm and self-destructive behaviors as a child do not mitigate the murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it little weight.

XVII. THE HOME OF THE DEFENDANT'S MOTHER

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant's mother, Nilda, was a horrible parent, who could barely take care of herself, much less her children. However, there is no connection between this mitigator and the Defendant's murder of the victim because, among other things, the Defendant only spent a brief period in her custody. The Defendant's childhood was spent being raised by his grandparents and his aunts. It is undeniable that the Defendant was affected by his mother's lifestyle and life choices. Regardless, there is no connection between this mitigator and the Defendant's murder of the victim. *The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.*

XVIII. THE DEFENDANT'S MOTHER WAS A PROSTITUTE

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant's mother, Nilda, prostituted herself within the Luis Llorens Torres Caserio. However, there is no connection between this mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XIX. THE DEFENDANT'S SIBLINGS WERE NEGLECTED

This mitigating factor has been established by the evidence. However, there is no connection between this mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XX. THE DEFENDANT WAS PLACED IN JUVENILE DETENTION AT AGE 9

This mitigating factor has been established by the evidence. The Defendant was placed in a juvenile facility at the age of 9 with older boys in an environment where he was left to fend for himself without any direction or care. The evidence reflects that the Defendant's time in the juvenile facility increased his feelings of abandonment, helplessness, hopelessness, and worthlessness.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it moderate weight.

XXI. THE DEFENDANT EXPERIENCED SEXUAL ABUSE IN JUVENILE DETENTION

This mitigating factor has been established by the evidence. The Defendant's juvenile detention records reflect that he reported this sexual abuse at the time. And, the testimony of his cousins corroborates the fact that the boys who were accused of doing this by the Defendant admitted to doing it when confronted with the allegation. Although the Defendant denies the abuse, and the extent of it is unknown, the totality of the record suggests that it profoundly affected him, particularly as it relates to his feelings of helplessness and worthlessness.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it moderate weight.

XXII. THE DEATH OF THE DEFENDANT'S GRANDMOTHER

This mitigating factor has been established by the evidence. What little stability the Defendant had in his early childhood ended with the death of his beloved grandmother. However, the Defendant was already manifesting criminality and self-destructive behavior long before her passing. Thus, there is no connection between this mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it little weight.

XXIII. THE DEFENDANT'S PLACEMENT WITH HIS AUNT GLORIA AS A CHILD

By moving in with his Aunt Gloria, the Defendant began a relationship that would define his teen years, which was his sycophantic relationship with his gang leader cousin Jose Luis Rivero Gonzalez, also known as Luis Llorens. However, other than this relationship, which is discussed and considered independently later in this order, there was nothing that the Defendant experienced during his time with his Aunt Gloria that was distinctly negative or traumatic for the Defendant when compared to his life prior to this time.

The Court finds that this mitigating circumstance has not been proven.

XXIV. THE DEFENDANT'S PLACEMENT WITH HIS AUNT MARIA AS A CHILD

The testimony and evidence presented during the penalty phase established that the Defendant only lived with his Aunt Maria briefly; and, that this was a generally positive time in his life, being away from the pressures, traumas, and environment of Luis Llorens Torres Caserio.

Furthermore, there is no connection between this alleged mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has not been proven.

XXV. THE DEFENDANT'S LACK OF EDUCATION

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant received little to no education for a myriad of reasons, including his own behavioral issues and the overall poor quality of the Puerto Rican education system, particularly for children located in the Luis Llorens Torres Caserio. However, there is no connection between this mitigator and the Defendant's murder of the victim, as the Defendant exhibited a level of intelligence in committing this murder that belies his lack of education.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XXVI. THE DEFENDANT SAVED HIS BROTHER'S LIFE

This mitigating factor has been established by the evidence. The Defendant, without question, cared deeply for his family and protected them to the best of his ability as a child when he was growing up. However, Defendant's love for his family, and his acts of love towards them, do not mitigate his murder of the victim in this case.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XXVII. THE DEFENDANT'S EXPOSURE TO VIOLENT CRIMES

This mitigating factor has been established by the evidence; and, is being considered in conjunction with the Luis Llorens Torres Caserio mitigator. Because this mitigator is essentially the same as the Luis Llorens Torres Caserio mitigator, the Court is treating it as a subset of that mitigator. The Court's prior findings as to that mitigator apply equally, though not separately or additionally, to this mitigator.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it moderate weight.

XXVIII. LUIS LLORENS, THE PROTECTOR

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant idolized his gang leader cousin; and, that their relationship provided the Defendant with some stability in his early teenage years. It was due to Luis Llorens' death that the Defendant had to flee Puerto Rico for the United States. As a result, the Defendant was left on his own to take care for himself, which he was not prepared to do, which led him to the crimes that placed him in the Florida Department of Corrections. However, there is no connection between this mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XXIX. THE DEFENDANT'S OPIATE ADDICTION AS A CHILD

This mitigating factor has been established by the evidence. However, there is no connection between this mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XXX. THE DEFENDANT WAS A VICTIM OF VIOLENT CRIME

This mitigating factor has been established by the evidence; and, is being considered in conjunction with the Luis Llorens Torres Caserio mitigator and the Exposure to Violent Crimes mitigator. Because this mitigator is essentially the same as the Luis Llorens Torres Caserio mitigator, the Court is treating it as a subset of that mitigator. The Court's prior findings as to that mitigator apply equally, though not separately or additionally, to this mitigator.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XXXI. THE DEATH OF THE DEFENDANT'S FATHER

This mitigating factor has been established by the evidence. However, there is no connection between this mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XXXII. THE DEFENDANT'S FAMILY HISTORY OF DRUG AND ALCOHOL ABUSE

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant's family has a profound history of drug and alcohol abuse, which has negatively impacted him and his relationship with his family throughout his life. To the extent that the Defendant's feelings of abandonment, helplessness, hopelessness, and worthlessness are

connected to this mitigator, it is being given some weight.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it some weight.

XXXIII. THE DEFENDANT'S FAMILY HISTORY OF VICTIMS OF VIOLENT CRIMES

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant's family has a history of being victims of violent crime, including murder. To the extent that the Defendant's feelings of abandonment, helplessness, hopelessness, and worthlessness are connected to this mitigator, it is being given some weight.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it some weight.

XXXIV. THE DEFENDANT'S FAMILY HISTORY OF CRIMINAL BEHAVIOR

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant's family has a history of criminal behavior. Given that the Defendant was raised in an environment of rampant lawlessness which was not only condoned by his family, but taught to him by his family, this mitigator is being considered among the most mitigating of the Defendant's mitigating evidence.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it moderate weight.

XXXV. THE DEFENDANT'S FAMILY HEALTH ISSUES

This mitigating factor has been established by the evidence. However, there is no connection

between this mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XXXVI. THE DEFENDANT'S FAMILY HISTORY OF MENTAL ILLNESS

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant's family has a profound history of mental illness, which has affected him both genetically and environmentally, and neither of which he has had any control over or choice in. Without question, the Defendant was severely impacted by this mitigator and it is being considered among the most mitigating of the Defendant's mitigating evidence, as it has defined the Defendant's life, and is circumstance from which he can never escape and must cope with every day of his life.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it moderate weight.

XXXVII. THE DEFENDANT'S FAMILY HISTORY OF SUICIDE

This mitigating factor has been established by the evidence; and, is being considered in conjunction with the family history of mental illness mitigator. The Court's findings as to that mitigator apply equally, though not separately or additionally, to this mitigator.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it moderate weight.

XXXVIII. THE DEFENDANT IS BIPOLAR

There is some dispute as to whether the Defendant has bi-polar disorder, though there is a history of this diagnosis in his medical records. Given the record, the Court finds that this mitigating factor has been proven. However, there is no established connection between this mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XXXIX. THE DEFENDANT HAS CLINICAL DEPRESSION

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant's has a history of clinical depression going back to his childhood, which has negatively impacted him throughout his life. To the extent that the Defendant's feelings of abandonment, helplessness, hopelessness, and worthlessness are connected to this mitigator, it is being given some weight.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it some weight.

XL. THE DEFENDANT HAS POST-TRAUMATIC STRESS DISORDER (PTSD)

This mitigating factor, although disputed among the experts, has been established by the evidence. However, there is no connection between this mitigator and the Defendant's murder of the victim as the Court does not find that the murder was sufficiently provoked by any act of the victim. In addition, given the preparatory actions taken by the Defendant before stabbing the victim, there is little evidence that the murder was the result of the Defendant's PTSD.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XLI. THE DEFENDANT HAS COMPLEX POST-TRAUMATIC STRESS DISORDER (CPTSD)

This mitigating factor, although disputed among the experts, has been established by the evidence. However, there is no connection between this mitigator and the Defendant's murder of the victim as the Court does not find that the murder was sufficiently provoked by any act of the victim. In addition, given the preparatory actions taken by the Defendant before stabbing the victim, there is little evidence that the murder was the result of the Defendant's PTSD.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XLII. THE DEFENDANT HAS BORDERLINE PERSONALITY DISORDER

There is some dispute as to whether the Defendant has borderline personality disorder, though there is a history of this diagnosis in his medical records. Given the record, the Court finds that this mitigating factor has been proven. However, there is no established connection between this mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XLIII. THE DEFENDANT HAS ANTISOCIAL PERSONALITY DISORDER

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant suffers from antisocial personality disorder. However, there is no

connection between this mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XLIV. THE DEFENDANT'S BAKER ACTS

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant has been Baker Acted on numerous occasions. However, there is no connection between this mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XLV. THE DEFENDANT USES PSYCHOTROPIC MEDICATION

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant uses psychotropic medication. However, there is no connection between this mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XLVI. THE DEFENDANT HAS A HISTORY OF SUICIDE ATTEMPTS

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant has a history of suicide attempts, although most of his underlying acts appear to be initiated as self-harm. To the extent that the Defendant has attempted suicide, it is

within the context that he does not care that his self-harm could result in death. However, there is no connection between this mitigator and the Defendant's murder of the victim. Nor is there any evidence that the Defendant murdered the victim in this case for the purpose of obtaining the death penalty.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XLVII. THE DEFENDANT HAS A HISTORY OF SELF-HARM

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant has a history of self-harm. However, there is no connection between this mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XLVIII. THE DEFENDANT IS AN ARTIST

This mitigating factor has been established by the evidence. However, there is no connection between this mitigator and the Defendant's murder of the victim.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it very little weight.

XLVIX. THE DEFENDANT'S LIFETIME OF INSTITUTIONALIZATION

The undisputed testimony and evidence presented during the penalty phase clearly established that the Defendant has been institutionalized for most of his life. The evidence also

established that inmates who are sex offenders against children are seen as worthless by other inmates, both in Puerto Rico's prison system and in Florida's Department of Corrections. However, as the Court previously found, the Defendant deliberately and intentionally had himself transferred into the victim's cell for the purpose of killing him.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it little weight.

L. THE DEFENDANT WAS SEXUALLY ASSAULTED BY VICTIM DONALD BURNS

As previously indicated during the discussion of the CCP and HAC aggravators, the Court does not find that the victim sexually assaulted, or attempted to sexually assault, the Defendant prior to the murder. The Defendant deliberately and intentionally had himself transferred into the victim's cell for the purpose of killing him based on the victim's crimes and his status as a sex offender. Other than the Defendant's self-serving statements to the correctional officers and inspectors general, there is no substantial evidence that the victim provoked or instigated the events that led to his murder.

The Court finds that this mitigating circumstance has not been proven.

LI. THE DEFENDANT WAS THE VICTIM OF A LEWD ACT BY VICTIM DONALD BURNS

As previously indicated during the discussion of the CCP and HAC aggravators, the Court does not find that the victim committed a lewd act towards the Defendant prior to the murder. The Defendant deliberately and intentionally had himself transferred into the victim's cell for the purpose

of killing him based on the victim's crimes and his status as a sex offender. Other than the Defendant's self-serving statements to the correctional officers and inspectors general, there is no substantial evidence that the victim provoked or instigated the events that led to his murder.

The Court finds that this mitigating circumstance has not been proven.

LII. THE DEFENDANT PLED TO FIRST DEGREE MURDER

This mitigating factor has been established by the evidence. However, there is no connection between this mitigator and the Defendant's murder of the victim. To the extent that the Defendant took responsibility for his actions, his plea of guilty to the murder deserves little weight.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it little weight.

LIII. THE DEFENDANT WAIVED A JURY

This mitigating factor has been established by the evidence. However, there is no connection between this mitigator and the Defendant's murder of the victim. To the extent that the Defendant took responsibility for his actions, his waiver of a jury trial deserves little weight.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it little weight.

LIV. THE DEFENDANT'S COURTROOM BEHAVIOR

This mitigating factor has been established by the evidence. However, there is no connection between this mitigator and the Defendant's murder of the victim. To the extent that the Defendant acted appropriately and respectfully throughout the penalty phase, his behavior deserves little weight.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it little weight.

LV. THE LOVE OF ANGEL'S FAMILY

This mitigating factor has been established by the evidence. However, there is no connection between this mitigator and the Defendant's murder of the victim. To the extent that the Defendant's family loves him and does not want him to receive the death penalty, the mitigator deserves little weight.

The Court finds that this mitigating circumstance has been proven by the greater weight of the evidence and gives it little weight.

LVI. OTHER FACTORS IN CHARACTER, BACKGROUND OR LIFE

Considering the testimony and evidence presented during the penalty phase, the Court finds no other mitigating circumstances related to the Defendant's character, background or life which have been proven.

The Court finds that this mitigating circumstance has not been proven.

LVII. OTHER FACTORS IN THE CIRCUMSTANCES OF THE OFFENSE

Considering the testimony and evidence presented during the penalty phase, the Court finds no other mitigating circumstances related to the underlying offense which have been proven.

The Court finds that this mitigating circumstance has not been proven.

SUMMARY OF AGGRAVATING AND MITIGATING CIRCUMSTANCES

This Court finds that the State of Florida has proven, beyond a reasonable doubt, each of

the four aggravators and has assigned them weight as follows:

I. **The capital felony was committed by a person previously convicted of a felony and under sentence of imprisonment or placed on community control or on felony probation. – GREAT WEIGHT.**

II. **The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person. – GREAT WEIGHT.**

III. **The capital felony was especially heinous, atrocious, or cruel. – VERY GREAT WEIGHT.**

IV. **The capital felony was a homicide and was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification. – VERY GREAT WEIGHT.**

This Court finds that the following mitigating circumstances have been proven by the greater weight of the evidence and assigns the weight to each as follows:

IV. **Luis Llorens Torres Caserio – MODERATE WEIGHT.**

V. **The Defendant was the Product of Statutory Rape – VERY LITTLE WEIGHT.**

VI. **The Defendant's Father was Absent – VERY LITTLE WEIGHT.**

VII. **The Defendant's Mother was Intellectually Disabled – VERY LITTLE WEIGHT.**

VIII. **The Defendant's Mother's Impaired Parenting Skills – VERY**

LITTLE WEIGHT.

IX. **The Defendant's Mother Abandoned him – LITTLE WEIGHT.**

X. **The Defendant's Grandfather was Violent and Abusive – VERY LITTLE WEIGHT.**

XI. **The Defendant's Grandfather was a Pedophile – VERY LITTLE WEIGHT.**

XII. **The Defendant's Grandmother Failed to Protect Children – VERY LITTLE WEIGHT.**

XIII. **The Defendant's Sexual Abuse in the Llorens Community – MODERATE WEIGHT.**

XIV. **The Defendant's Early Drug Use – VERY LITTLE WEIGHT.**

XV. **The Defendant's Lack of Childhood Health – VERY LITTLE WEIGHT.**

XVI. **The Defendant's Mental Illness as a Child – VERY LITTLE WEIGHT.**

XVII. **The Home of the Defendant's Mother – VERY LITTLE WEIGHT.**

XVIII. **The Defendant's Mother was a Prostitute – VERY LITTLE WEIGHT.**

XIX. **The Defendant's Siblings were Neglected – VERY LITTLE WEIGHT.**

XX.	**The Defendant was placed in Juvenile Detention at age 9 – MODERATE WEIGHT.**
XXI.	**The Defendant experienced Sexual Abuse in Juvenile Detention – MODERATE WEIGHT.**
XXII.	**The Death of the Defendant's Grandmother – LITTLE WEIGHT**
XXV.	**The Defendant's Lack of Education – VERY LITTLE WEIGHT.**
XXVI.	**The Defendant Saved his Brother's Life – VERY LITTLE WEIGHT.**
XXVII.	**The Defendant's Exposure to Violent Crimes – MODERATE WEIGHT.**
XXVIII.	**Luis Llorens, the Protector – VERY LITTLE WEIGHT.**
XXIX.	**The Defendant's Opiate Addiction as a Child – VERY LITTLE WEIGHT.**
XXX.	**The Defendant was a Victim of Violent Crime – VERY LITTLE WEIGHT.**
XXXI.	**The Death of the Defendant's Father – VERY LITTLE WEIGHT.**
XXXII.	**The Defendant's Family History of Drug and Alcohol Abuse – SOME WEIGHT.**
XXXIII.	**The Defendant's Family History as Victims of Violent Crimes – SOME WEIGHT.**
XXXIV.	**The Defendant's Family History of Criminal Behavior –**

MODERATE WEIGHT.

XXXV. **The Defendant's Family Health Issues – VERY LITTLE WEIGHT.**

XXXVI. **The Defendant's Family History of Mental Illness – MODERATE WEIGHT.**

XXVII. **The Defendant's Family History of Suicide – MODERATE WEIGHT.**

XXXVIII. **The Defendant is Bipolar – VERY LITTLE WEIGHT.**

XXXIX. **The Defendant has Clinical Depression – SOME WEIGHT.**

XL. **The Defendant has Post-Traumatic Stress Disorder (PTSD) – VERY LITTLE WEIGHT.**

XLI. **The Defendant has Complex Post-Traumatic Stress Disorder (CPTSD) – VERY LITTLE WEIGHT.**

XLII. **The Defendant has Borderline Personality Disorder – VERY LITTLE WEIGHT.**

XLIII. **The Defendant has Antisocial Personality Disorder – VERY LITTLE WEIGHT.**

XLIV. **The Defendant's Baker Acts – VERY LITTLE WEIGHT.**

XLV. **The Defendant uses Psychotropic Medication - VERY LITTLE WEIGHT.**

XLVI. **The Defendant has a History of Suicide Attempts – VERY LITTLE WEIGHT.**

XLVII. **The Defendant has a History of Self-Harm – VERY LITTLE WEIGHT.**

XLVIII. **The Defendant is an Artist – VERY LITTLE WEIGHT.**

XLVIX. **The Defendant's Lifetime of Institutionalization – LITTLE WEIGHT.**

LII. **The Defendant Pled to First Degree Murder – LITTLE WEIGHT.**

LIII. **The Defendant Waived a Jury – LITTLE WEIGHT.**

LIV. **The Defendant's Courtroom Behavior – LITTLE WEIGHT.**

LV. **The Love of Angel's Family – LITTLE WEIGHT.**

In weighing the aggravating factors against the mitigating factors, the Court understands that the process is more qualitative than quantitative. In that regards, the Court finds that the aggravating circumstances in this case far outweigh the mitigating circumstances.

The Defendant has an extensive history of violent felony offenses; and, at the time of the murder in this case, was serving multiple life sentences in the Florida Department of Corrections based on three separate and distinct criminal episodes involving violence or threats of violence.

In committing the murder in this case, the Defendant manipulated one or more correctional officers into placing him into the victim's cell. The Defendant then either manipulated the victim into letting himself be blindfolded and tied up or forced to be blindfolded and tied up, at which point the Defendant removed the blindfold and began stabbing the victim approximately 64 times. The removal of the blindfold was to increase the terror and fear that the victim would experience by allowing him to see himself being stabbed. Furthermore, the Defendant wanted the victim to suffer

and know that he was going to die.

JUDGMENT AND SENTENCE

As to the Charge of First Degree Murder of Donald Burns in the Indictment, the Court adjudicates you, **ANGEL SANTIAGO-GONZALEZ**, guilty of that offense and sentences you to death.

IT IS ORDERED that you, **ANGEL SANTIAGO-GONZALEZ**, be taken by the proper authority to the Florida Department of Corrections, to be housed there until the date of your execution.

IT IS ORDERED that on such scheduled date, you, **ANGEL SANTIAGO-GONZALEZ**, be put to death.

You are hereby notified that this Sentence is subject to automatic review by the Florida Supreme Court.

DONE AND ORDERED in Chambers at Lake Butler, Union County, Florida, on this 13th day of April 2018.

DAVID P. KREIDER,
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I CERTIFY that a true copy of the foregoing was furnished on 13th April 2018 by e-mail to:

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