

**STATE OF FLORIDA
IN THE CIRCUIT COURT OF THE 1ST JUDICIAL CIRCUIT
IN AND FOR SANTA ROSA COUNTY FLORIDA**

STATE OF FLORIDA,)

-vs-

SHAWN ROGERS
Defendant.

UCN: 572017CF000804CFAXMX
Case Number: 17000804CFMXAX
OBTS#:

Judgment

☐ PROBATION VIOLATOR
☐ COMMUNITY CONTROL VIOLATOR

☐ RESENTENCE
☐ RETRIAL

The defendant SHAWN ROGERS being personally before the court represented by KENNETH L BROOKS, the attorney of record and the state represented by JONATHAN VINCENT SCHLECHTER and having been tried and found guilty by jury of the following crime(s):

| SEQ # | CNT # | CHARGE | LVL DGR |
|-------|-------|--|------------------------|
| 1 | 1 | 782.04 FIRST DEGREE PREMEDIATED OR FELONY 775.087 MURDER WITH A WEAPON | Felony Capital |
| 2 | 2 | 787.01.1a3 KIDNAPPING TO INFLICT BODILY HARM OR 787.01.2 TERRORIZE VICTIM | Felony First Degree |

- ☐ The PROBATION COMMUNITY CONTROL previously ordered in this case is revoked.
☐ The PRIOR ADJUDICATION OF GUILT IN THIS CASE IS CONFIRMED and no cause having been shown why the defendant should not be adjudicated guilty.

It is ordered that the defendant is hereby Adjudicated Guilty of the above crime(s).
and having been convicted or found guilty of attempts or offenses relating to murder, the defendant shall be required to submit blood specimens or other biological specimens approved by FDLE.

DONALD C. SPENCER
CLERK OF COURT &
COMPTROLLER

State of Florida

v.

SHAWN ROGERS











Defendant

2017 DEC 18 AM 9:27

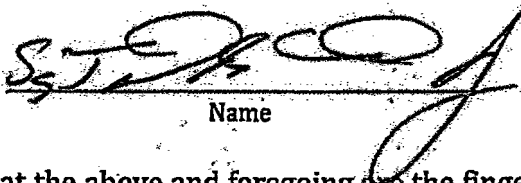
SANTA ROSA COUNTY FL
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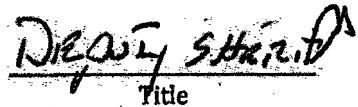
Case Number: 17-CF-804

FINGERPRINTS OF DEFENDANT

| | | | | |
|---|---|---|---|---|
| 1. Right Thumb | 2. Right Index | 3. Right Middle | 4. Right Ring | 5. Right Little |
|  |  |  |  |  |
| 6. Left Thumb | 7. Left Index | 8. Left Middle | 9. Left Ring | 10. Left Little |
|  |  |  |  |  |

Fingerprints taken by:


Name


Title

I **HEREBY CERTIFY** that the above and foregoing are the fingerprints of the defendant, Shawn Rogers, and that they were placed by the defendant in my presence in open court this date.

DONE AND ORDERED in open court in Milton, Santa Rosa County, Florida this 18 day of
DECEMBER 2017.


Circuit Judge

**STATE OF FLORIDA
IN THE CIRCUIT COURT OF THE 1ST JUDICIAL CIRCUIT
IN AND FOR SANTA ROSA COUNTY FLORIDA**

STATE OF FLORIDA,

-vs-

SHAWN ROGERS
Defendant.

UCN: 572017CF000804GFAXMX

Case Number: 17000804CFMXAX

**Sentence
As To Count 1**

The defendant, being personally before this court, accompanied by the defendant's attorney of record, KENNETH L BROOKS JR, and having been adjudicated guilty herein, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown,

(Check one if applicable)

- ☐ and the court having on 12/18/2017 deferred imposition of sentence until this date 12/18/2017
- ☐ and the court having previously entered a judgment in this case on _____ now resentsences the defendant
- ☐ and the court having placed the defendant on probation/community control and having subsequently revoked the defendant's probation/community control

It Is The Sentence Of The Court That:

The Defendant is hereby committed to the custody of the Department of Corrections.

- ☐ The defendant pay a fine pursuant to section 775.083, Florida Statutes, plus a 5% surcharge required by section 938.04 Florida Statutes, as indicated on the Fine/Costs/Fee Page.
- ☐ The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To Be Imprisoned:

SENTENCED TO DEATH

In the event the defendant is ordered to serve additional split sentences, all incarcerations portions shall be satisfied before the defendant begins service to the supervision terms.

**STATE OF FLORIDA
IN THE CIRCUIT COURT OF THE 1ST JUDICIAL CIRCUIT
IN AND FOR SANTA ROSA COUNTY FLORIDA**

STATE OF FLORIDA,

-vs-

SHAWN ROGERS,
Defendant.

UCN: 572017CF000804CFAXMX

Case Number: 17000804CFMXAX

**Sentence
As To Count 2**

The defendant, being personally before this court, accompanied by the defendant's attorney of record, KENNETH L BROOKS JR, and having been adjudicated guilty herein, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown,

(Check one if applicable)

- ☐ and the court having on 12/18/2017 deferred imposition of sentence until this date 12/18/2017
- ☐ and the court having previously entered a judgment in this case on _____ now resentsences the defendant
- ☐ and the court having placed the defendant on probation/community control and having subsequently revoked the defendant's probation/community control

It Is The Sentence Of The Court That:

The Defendant is hereby committed to the custody of the Department of Corrections.

- ☐ The defendant pay a fine pursuant to section 775.083, Florida Statutes, plus a 5% surcharge required by section 938.04 Florida Statutes, as indicated on the Fine/Costs/Fee Page.
- ☐ The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To Be Imprisoned:

For a term of natural life.

WITHOUT PAROLE

In the event the defendant is ordered to serve additional split sentences, all incarcerations portions shall be satisfied before the defendant begins service to the supervision terms.

**STATE OF FLORIDA
IN THE CIRCUIT COURT OF THE 1ST JUDICIAL CIRCUIT
IN AND FOR SANTA ROSA COUNTY FLORIDA**

STATE OF FLORIDA,

-vs-

SHAWN ROGERS

Defendant.

UCN: 572017CF000804CFAXMX

Case Number: 17000804CFMXAX

OBTS#:

Other Provisions

As To Counts 1&2

It is further ordered that the defendant shall be allowed a total of 190.00 day(s) credit for such time incarcerated before imposition of this sentence.

ALL COUNTS TO RUN CONCURRENT

CREDIT FOR TIME SERVED:

- ☐ The Department of Corrections shall apply the original jail time (To be used for Resentencing credit and to compute and apply credit for time served and the and after VOP and VOCC.) gain time awarded pursuant to section 944.275 Florida Statutes. (Pre October 1, 1989)
- ☐ The Department of Corrections shall apply the original jail time credit and to compute and apply credit for time served and unforfeited gain time awarded during prior service of incarceration of the split sentence pursuant to section 948.06 (6) Florida Statutes. (Post October 1, 1989)
- ☐ Defendant is allowed credit for _____ days credit county jail served between date of arrest as a violator and date of resentencing. The Department of Corrections shall apply original jail credit awarded and shall compute and apply credit for actual time served in prison and any earned and unforfeited gain time awarded prior service on:

CASE NO:

COUNT

pursuant to section 944.276 Florida Statutes.

State of Florida

v.

SHAWN ROGERS

Defendant

Case Number: 17-CF-804

DONALD C. SPENCER
CLERK OF COURT &
COMPTROLLER

2017 DEC 18 AM 9:27

SANTA ROSA COUNTY FL
FELONY FILED

Other Provision, continued:

**Consecutive/Concurrent
As To Other Counts**

It is further ORDERED that the sentence imposed for this count shall run ☐consecutive to ☐concurrent with the sentence set forth in count ___ of this case.

**Consecutive/Concurrent
As To Other Convictions**

It is further ORDERED that the composite term of all sentences imposed for the count(s) specified in this Order shall run ☐consecutive to ☐concurrent with the following:

☐ any active sentence being served.

☐ specific sentences:


In the event the above sentence is to the Department of Corrections, the Sheriff of Santa Rosa County, Florida, is hereby ORDERED AND DIRECTED to deliver the Defendant to the Department of Corrections at the facility designated by the Department together with a copy of this Judgment and Sentence and any other documents specified by Florida Statute.

The Defendant in open court was advised of the right to appeal from this sentence by filing Notice of Appeal within 30 days from this date with the clerk of this Court, and the Defendant's right to the assistance of counsel in taking the appeal at the expense of the State on showing of indigency.

In imposing the above sentence, the court further ☐recommends ☐ORDERS:

DONE AND ORDERED in open court in Milton, Santa Rosa County, Florida this 18 day of

DECEMBER, 2017.


Circuit Judge

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR SANTA ROSA COUNTY, FLORIDA**

STATE OF FLORIDA,

vs.

Case No.: 2017-CF-804

SHAWN ROGERS,

Defendant.

SENTENCING ORDER

THIS CAUSE is before the Court for sentencing. The Defendant was charged by indictment with the crimes of first degree murder and kidnapping to terrorize or inflict bodily harm. On August 8, 2017, the jury found the Defendant guilty as charged. In accordance with section 921.141, Florida Statutes, the same jury considered testimony and other evidence regarding whether the Defendant should be sentenced to death or life imprisonment without the possibility of parole. The jury unanimously recommended the Defendant be sentenced to death. Having fully considered the evidence adduced at trial, the penalty phase evidence, the evidence presented at the Spencer hearing,¹ the arguments of counsel, the applicable law, and being otherwise fully advised in the premises, the Court finds as follows:

Background

The Defendant, while a prisoner at Santa Rosa Correctional Institution, kidnapped and brutally battered his cellmate, Ricky Dean Martin, on March 30, 2012. The injuries Martin sustained led to his death. The Defendant was serving a life sentence for an unrelated crime at the time of the murder.

¹ Spencer v. State, 615 So. 2d 688 (Fla. 1993).

At the guilt phase of the trial, the Defendant chose to represent himself and testified on his own behalf. The Defendant explained that when he entered Martin's cell, it was "filthy." The Defendant stated that seeing the cell in this condition "disgusted" him to his "core." The Defendant testified that it "pissed [him] off that [he] had to clean up after a grown man."

The Defendant further testified that he cleaned the cell, all the while speaking aggressively to Martin, and calling him names such as "dirty ass cracker" and a "filthy motherfucker." After the Defendant finished cleaning and explaining to Martin his expectation of future cleanliness in the cell, he retired to the top bunk and began listening to sports radio.

The Defendant stated that afterwards Martin began cutting himself with a "sharp object." In response, the Defendant told Martin to "stop acting like a bitch and be a man." Martin, according to the Defendant, continued cutting himself, stating, "Man, I gotta get out of here." In response, the Defendant hit Martin with "combination of punches," causing Martin to fall to the floor. The Defendant then stomped the Martin's head into the concrete, "six or seven times." The Defendant testified that Martin tried to get up, but could not because Martin was "messed up."

The Defendant explained that he then tore up a bed sheet and used the strips to tie up Martin. The Defendant kicked Martin in the face and said, "this is for Trayvon Martin, motherfucker." The Defendant continued to kick Martin, calling him a "pussy ass fuck boy," and exclaiming "this is for Martin Luther King," and "this is for Emmett Till and all the other black people you crackers done killed." The Defendant then asked "all the brothers on the wing" a question. "Who wants me to kill this pussy ass cracker?" The Defendant testified "a lot of them said 'yeah,'" but a friend of the Defendant, "Y.O.," said "big bro, don't kill that cracker, just put him on the door." The Defendant explained that "he was going to kill this fuck boy," but

the Defendant apparently was swayed by Y.O.'s vote for mercy. Unfortunately, the injuries already inflicted were sufficient to cause Martin's death. The Defendant testified that after the beating he said, "Blue Flame, Midnight Crip Gang." The Defendant explained at one point in his testimony, "I believe in the Midnight Crip Gang, to the fullest."

The Defendant denied raping Martin or slapping Martin's buttocks in his direct testimony, but admitted that he pulled down Martin's pants. The Defendant stated that he made a clapping noise and said, "this is the sound of white ass." The Defendant testified he did this to anger Martin's "gang brothers."

The Defendant unequivocally testified that he battered Martin the way that he did because of the killing of Trayvon Martin, a death that had no actual connection to the victim in this case. The Defendant further stated that his actions were also the result of Ricky Martin's "vibe," which the Defendant described as that of a "straight bitch," a "snitch," and an "uncover racist."

Aggravating Circumstances

The jury found that five statutory aggravating circumstances have been proven beyond a reasonable doubt. The Court has considered these aggravating circumstances and finds them to be supported by legally sufficient evidence. The Court will now address these factors as they relate to this case.

- (1) The capital felony was committed by a person previously convicted of a felony and under sentence of imprisonment**

There can be no legitimate question that this aggravating factor applies in this case. § 921.141(6)(a), Fla. Stat. At the time of the murder of Ricky Martin, the Defendant was serving a

life sentence for robbery with a firearm.² Because the Defendant was already serving the second harshest sentence available under the law at the time of the murder, this aggravating circumstance is very weighty in this case. See Hall v. State, 107 So. 3d 262 (Fla. 2012)(great weight to this aggravator when Hall was serving two life sentences at the time he murdered a correctional officer); Globe v. State, 877 So. 2d 663 (Fla. 2004)(great weight to this aggravator when Globe was serving three life sentences at the time he murdered a fellow prisoner).

This aggravating factor is given great weight.

(2) The Defendant was previously convicted of a felony involving the use or threat of violence to another person.

It is uncontroverted that the Defendant was previously convicted of three felonies involving the use or threat of violence to another person. § 921.141(6)(b). In 1997, the Defendant was convicted of attempted robbery in the first degree and sentenced to 27 to 54 months in prison in New York County case number 906-97. The conviction arose from an incident during which the Defendant used a gun to rob a man on a train platform.

In addition, as previously mentioned, the Defendant was previously convicted of robbery with a firearm and aggravated battery with a deadly weapon in Volusia County, Florida. During the criminal episode in Volusia County, the Defendant robbed a cab driver and used the gun to strike the driver in the mouth. When the Defendant battered the driver, he knocked out one of the driver's teeth.

In a letter to Judge Goodman dated March 31, 2013, the Defendant stated "I have a tendency to be very violent with little or no provocation. A problem I see that is only getting worse as the years go by." These undisputed facts demonstrate that the Defendant has used illegal violence against other people. The Defendant's pattern of criminal conduct has escalated

² See Volusia County case number 2002-CF-30483.

to the point where the Defendant himself has testified he murdered a cellmate because, in part, of the victim's "vibe."

This aggravating factor is given great weight.

(3) The capital felony was committed while Defendant was engaged in the commission of a kidnapping

The Court finds no error in the jury's finding that the Ricky Martin's murder was committed while the Defendant was engaged in the commission of a kidnapping. § 921.141(6)(d). After brutally beating the victim, Defendant tied the victim's hands and feet to prevent him from continuing to attempt to get up from the floor. The Defendant's unlawful binding of the victim in this manner constitutes a kidnapping under Florida law. See State v. Allen, 137 So. 3d 946, 959 (Fla. 2013); Boyd v. State, 910 So. 2d 167 (Fla. 2005); Bedford v. State, 589 So. 2d 245 (Fla. 1991). Defendant also tried to gag the victim to prevent him from continuing to scream.

This aggravating circumstance is given significant weight.

(4) The capital felony was especially heinous, atrocious, or cruel.

The HAC aggravator is proper "only in torturous murders—those that evince extreme and outrageous depravity as exemplified either by the desire to inflict a high degree of pain or utter indifference to or enjoyment of the suffering of another." Guzman v. State, 721 So. 2d 1155, 1159 (Fla.1998) (citing Kearse v. State, 662 So. 2d 677 (Fla.1995)). **We have repeatedly upheld the HAC aggravating circumstance in cases where the victim has been stabbed numerous times or been beaten to death and has remained conscious for at least part of the attack.**

Hall v. State, 107 So. 3d 262, 276 (Fla. 2012)(emphasis added).

Based on the testimony of Dr. Andrea Minyard, and the testimony of Defendant, the Court concludes that the murder of Ricky Martin was especially heinous, atrocious, or cruel. § 921.141(6)(h), Fla. Stat. After knocking Martin to the floor with a "combination of punches," the Defendant stomped the victim's head against the concrete floor of the prison cell multiple

times. The victim screamed and yelled, and attempted to get up. In response, the Defendant tried Martin up and proceeded to repeatedly kick him in face. The Court concludes that Martin was conscious for at least part of the attack due to Martin's screams and attempts to get off the floor. Martin left bloody handprints on the wall of the prison cell. Quite simply, this was a merciless and tortuous beating.

Additionally, the Defendant tried to gag Martin to prevent him from continuing to scream. He then pulled down the victim's pants. Then he either slapped Martin's buttocks, or intimated to nearby prisoners that he was doing so, to humiliate Martin. Other than base cruelty, there was no reason for such conduct.

Ricky Martin must have suffered through extreme anxiety as he was beaten to death. His feeble attempts to regain his footing resulted in the Defendant binding him and viciously kicking him in the face. Ricky Martin had to endure this pitiless beating while being told that he must suffer for killings that quite clearly had nothing to do with him. The savage torture of Ricky Martin was physically and mentally cruel and vicious. Moreover, the Defendant was utterly indifferent to Martin's immense suffering.³

A murder being heinous, atrocious or cruel is among the most weighty of the factors in Florida's sentencing calculus. Sireci v. State, 825 So. 2d 882, 887 (Fla. 2002); Hannon v. State, 941 So. 2d 1109, 1137 (Fla. 2006)(Explaining that the HAC aggravator is "one of the most serious aggravators set out in the statutory sentencing scheme.").

This aggravating circumstance is given great weight.

³ To be clear, the Court is not considering the Defendant's lack of remorse as an aggravating factor. It is plainly improper to consider any non-statutory factor as an aggravating circumstance. The Court is simply noting that the Defendant was utterly indifferent to the suffering of Ricky Martin at the time of the murder.

- (5) **The capital felony was a homicide and was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification.**

The jury found that the murder of Ricky Martin was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification. § 921.141(6)(i), Fla. Stat. The Court finds this aggravating factor, often referred to as “CCP,” is supported by legally sufficient evidence.

In the letter addressed to the Honorable Marci Goodman dated March 31, 2013, the Defendant stated that “My intentions were to kill him in the cell that night.” The Defendant explained that after learning of the shooting death of Trayvon Martin, he decided that he “was going to kill the next white man who came across [his] path. Unfortunately, it happened to be Ricky Dean Martin.” Moreover, the Defendant adamantly testified at trial that his merciless beating of the victim was because of the killing of Trayvon Martin. (Trayvon Martin was killed approximately one month prior to the Defendant’s criminal conduct in this case.)

The Court finds that the evidence is legally sufficient to support this jury’s finding of the existence of this aggravating circumstance, as it is analogous to cases where a killer lays in wait for his victim. Here, the Defendant waited for his opportunity to kill a white man in Santa Rosa Correctional Institution. Although the Court is cognizant of the very real and tragic injustices that African Americans have had to endure throughout the history of the United States of America, the Defendant “had no colorable claim of any moral or legal justification” for the killing of Ricky Martin because of the killing of Trayvon Martin. Dougan v. State, 595 So. 2d 1, 5 (Fla. 1992). There is no credible evidence whatsoever that the Defendant acted in self-defense or in defense of another.

The Court gives this aggravating circumstance great weight.⁴

Mitigating Circumstances

Having considered the aggravating circumstances that apply, the Court turns to the applicable mitigating circumstances in this case. Campbell v. State, 571 So. 2d 415, 419 (Fla. 1990). A mitigating circumstance must be proven by the greater weight of the evidence.

Statutory Mitigating Circumstances

- (1) **The capital felony was committed while Defendant was under the influence of extreme mental or emotional disturbance.**

This mitigating factor was not found to exist by the jury. In addition, the Court finds that it was not proven by a preponderance of the evidence. Thus, it is given no weight.

- (2) **The capacity of Defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired.**

This mitigating factor was not found to exist by the jury. In addition, the Court finds that it was not proven by a preponderance of the evidence. Thus, it is given no weight.

⁴ The Court respects the jury's factual finding as to the existence of this aggravating factor beyond a reasonable doubt and agrees with it. On the other hand, the Court recognizes that, unlike all the other four aggravating factors in this case, the evidence to support this aggravating circumstance is not overwhelming. A rational jury could have reached the conclusion that this aggravating circumstance was not proven beyond a reasonable doubt if it did not find the Defendant's testimony credible that the victim was murdered because of the death of Trayvon Martin. The Florida Supreme Court has explained that "A sentencing order that comprehensively addresses all mitigation and which weighs the mitigation against the aggravation is absolutely essential to ensure meaningful appellate review in capital cases." Woodel v. State, 804 So. 2d 316, 326 (Fla. 2001). In the interest of fulfilling its duty to issue a comprehensive sentencing order, the Court makes the following factual finding: even if the CCP factor were not proven and was accorded *no weight*, the Court's sentencing decision would remain the same. The combined weight all the other four aggravating circumstances, without considering CCP whatsoever, far outweigh the mitigating circumstances presented.

(3) The age of Defendant at the time of the crime.

This mitigating factor was not found to exist by the jury. In addition, the Court finds that it was not proven by a preponderance of the evidence. Indeed, the Defendant was 31 years of age at the time of the murder. Thus, it is given no weight.

Non-Statutory Mitigating Circumstances

(4) Defendant suffers from major depression.

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Harper, however, the Court finds that Defendant has proven by the greater weight of the evidence that he has been diagnosed with major depressive disorder. This mitigating circumstance is given very little weight.

(5) Defendant has a history of multiple head injuries starting as a child.

The jury found this mitigating circumstance by a vote of 10-2. Based on the testimony of Dr. Mark Rubino and Dr. Joseph Wu, the Court finds that Defendant has proven by the greater weight of the evidence that he has a history of multiple head injuries starting as a child. This mitigating circumstance is given moderate weight.

(6) Defendant was born to a crack addicted mother.

This mitigating factor was not found to exist by the jury. The Court finds that Defendant has not proven by the greater weight of the evidence that he was born to a crack addicted mother. At best, the testimony of Dr. Harper established that Defendant's mother used cocaine when she was pregnant with his brothers Kevin and Sherrod. This mitigating circumstance is given no weight.

(7) Defendant does not know the identity of his father.

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Harper, however, the Court finds that Defendant has proven by the greater weight of the evidence that he does not know the identity of his father. This mitigating circumstance is given no weight.

(8) Defendant endured maternal abandonment.

This mitigating factor was unanimously found to exist by the jury. Based on the testimony of Dr. Marvin Dunn and Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he endured maternal abandonment. This mitigating circumstance is given some weight.

(9) Defendant endured paternal abandonment.

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Dunn and Dr. Harper, however, the Court finds that Defendant has proven by the greater weight of the evidence that he endured paternal abandonment. This mitigating circumstance is given little weight.

(10) Defendant's mother is mentally ill.

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Dunn and Dr. Harper, however, the Court finds that Defendant has proven by the greater weight of the evidence that his mother is mentally ill. This mitigating circumstance is given very little weight.

(11) Defendant's mother attempted suicide by jumping off a building with Defendant.

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Harper, however, the Court finds that Defendant has proven by the greater weight of the

evidence that his mother attempted suicide by jumping off a building with him. This mitigating circumstance is given little weight.

(12) Defendant was emotionally abused and rejected by his mother.

This mitigating factor was unanimously found to exist by the jury. Based on the testimony of Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he was emotionally abused and rejected by his mother. This mitigating circumstance is given some weight.

(13) Defendant was rejected by his maternal grandmother.

This mitigating factor was not found to exist by the jury. The Court finds that Defendant has not proven by the greater weight of the evidence that he was rejected by his maternal grandmother. At best, the testimony of Dr. Harper established that Defendant's maternal grandmother was not able to adequately care for him. This mitigating circumstance is given no weight.

(14) Defendant was born into a dysfunctional family.

This mitigating factor was unanimously found to exist by the jury. Based on the testimony of Dr. Dunn and Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he was born into a dysfunctional family. This mitigating circumstance is given some weight.

(15) Defendant was separated from his biological brother Christopher as a toddler.

This mitigating factor was found to exist by the jury by a vote of 9-3. Based on the testimony of Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he was separated from his biological brother Christopher as a toddler. This mitigating circumstance is given some weight.

- (16) Defendant was separated from his biological brother Kevin, who was born cocaine positive and removed at birth.**

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Harper, however, the Court finds that Defendant has proven by the greater weight of the evidence that he was separated from his biological brother Kevin, who was born cocaine positive and removed at birth. This mitigating circumstance is given very little weight.

- (17) Defendant was separated from his biological brother Sherrod, who was born cocaine positive and removed at birth.**

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Harper, however, the Court finds that Defendant has proven by the greater weight of the evidence that he was separated from his biological brother Sherrod, who was born cocaine positive and removed at birth. This mitigating circumstance is given very little weight.

- (18) Defendant was exposed to drugs at an early age by his mother, who made him inject her with drugs.**

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Harper, however, the Court finds that Defendant has proven by the greater weight of the evidence that he was exposed to drugs at an early age by his mother, who made him inject her with drugs. This mitigating circumstance is given some weight.

- (19) The death of Defendant's maternal grandmother was traumatic for him.**

This mitigating factor was not found to exist by the jury. The Court finds that Defendant has not proven by the greater weight of the evidence that he has never been shown love or affection. This mitigating circumstance is given no weight.

(20) Defendant never received grief counseling after the loss of his grandmother.

This mitigating factor was not found to exist by the jury. The Court finds that Defendant has not proven by the greater weight of the evidence that he never received grief counseling after the loss of his grandmother. This mitigating circumstance is given no weight.

(21) Defendant has never been shown love or affection.

This mitigating factor was not found to exist by the jury. The Court finds that Defendant has not proven by the greater weight of the evidence that he has never been shown love or affection. This mitigating circumstance is given no weight.

(22) Defendant loves his mother in spite of the maltreatment and neglect by her.

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Dunn and Dr. Harper, however, the Court finds that Defendant has proven by the greater weight of the evidence that he loves his mother in spite of the maltreatment and neglect by her. This mitigating circumstance is given very little weight.

(23) Defendant loves his brother Christopher.

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he loves his brother Christopher. This mitigating circumstance is given very little weight.

(24) Defendant has empathy for his mother.

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Dunn and Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he has empathy for his mother. This mitigating circumstance is given little weight.

(25) Defendant has encouraged his brother to do well.

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he has encouraged his brother to do well. This mitigating circumstance is given very little weight.

(26) Defendant has counseled his brother on the importance of education.

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he has counseled his brother on the importance of education. This mitigating circumstance is given very little weight.

(27) Defendant will continue to be a source of emotional support to his brother.

This mitigating factor was not found to exist by the jury. The Court finds that Defendant has not proven by the greater weight of the evidence that he will continue to be a source of emotional support to his brother. At best, the testimony of Dr. Harper established that Defendant has been a source of emotional support to his brother in the past. This mitigating circumstance is given no weight.

(28) Defendant lived on the streets when he was homeless.

This mitigating factor was unanimously found to exist by the jury. Based on the testimony of Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he lived on the streets when he was homeless. This mitigating circumstance is given some weight.

(29) Defendant grew up in poverty during developmental years.

This mitigating factor was found to exist by the jury by a vote of 10-2. Based on the testimony of Dr. Dunn and Dr. Harper, the Court finds that Defendant has proven by the greater

weight of the evidence that he grew up in poverty during developmental years. This mitigating circumstance is given some weight.

(30) Defendant spent his early years in the Marcy Projects of Brooklyn.

This mitigating factor was found to exist by five members of the jury. Based on the testimony of Dr. Dunn and Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he spent his early years in the Marcy Projects of Brooklyn. This mitigating circumstance is given some weight.

(31) Defendant moved to multiple foster homes.

This mitigating factor was found to exist by the jury by a vote of 8-4. Based on the testimony of Dr. Dunn and Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he moved to multiple foster homes. This mitigating circumstance is given some weight.

(32) The psychological impact of being placed in foster care.

This mitigating factor was found to exist by the jury by a vote of 9-3. Based on the testimony of Dr. Dunn and Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence the psychological impact of being placed in foster care. This mitigating circumstance is given some weight.

(33) Defendant experienced inadequate nutrition as a child.

This mitigating factor was not found to exist by the jury. The Court finds that Defendant has not proven by the greater weight of the evidence that he experienced inadequate nutrition as a child. At best, the testimony of Dr. Dunn established that extreme poverty affects development because of poor nutrition. This mitigating circumstance is given no weight.

(34) Defendant attended at least eight schools by the age of 13.

This mitigating factor was found to exist by one member of the jury. Based on the testimony of Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he attended at least eight schools by the age of 13. This mitigating circumstance is given very little weight.

(35) Defendant witnessed multiple violent acts in his neighborhood.

This mitigating factor was found to exist by the jury by a vote of 10-2. Based on the testimony of Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he witnesses multiple violent acts in his neighborhood. This mitigating circumstance is given some weight.

(36) Defendant was sent to a children's group home, The Children's Village.

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Harper, however, the Court finds that Defendant has proven by the greater weight of the evidence that he was sent to a children's group home, The Children's Village. This mitigating circumstance is given very little weight.

(37) Defendant was moved to another group home, Edwin Gould Academy.

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he was moved to another group home, Edwin Gould Academy. This mitigating circumstance is given very little weight.

(38) Defendant was admitted to a children's psychiatric hospital at the age of 14.

This mitigating factor was unanimously found to exist by the jury. Based on the testimony of Dr. Harper, the Court finds that Defendant has proven by the greater weight of the

evidence that he was admitted to a children's psychiatric hospital at the age of 14. This mitigating circumstance is given moderate weight.

(39) Defendant did not have a stable childhood.

This mitigating factor was unanimously found to exist by the jury. Based on the testimony of Dr. Dunn and Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he did not have a stable childhood. This mitigating circumstance is given some weight.

(40) Defendant was exposed to racial tension and discrimination in his life.

This mitigating factor was found to exist by the jury by a vote of 11-1. Based on the testimony of Dr. Dunn and Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he was exposed to racial tension and discrimination in his life. This mitigating circumstance is given some weight.

(41) Defendant suffers from brain damage.

This mitigating factor was found to exist by one member of the jury. Based on the testimony of Dr. Rubino and Dr. Wu, the Court finds that Defendant has proven by the greater weight of the evidence that he suffers from brain damage. This mitigating circumstance is given some weight.

(42) Defendant suffers from neurological deficits.

This mitigating factor was found to exist by one member of the jury. Based on the testimony of Dr. Rubino and Dr. Wu, the Court finds that Defendant has proven by the greater weight of the evidence that he suffers from neurological deficits. This mitigating circumstance is given some weight.

- (43) Defendant was exposed to acts of violence while in the high security juvenile detention facilities.**

This mitigating factor was unanimously found to exist by the jury. Based on the testimony of Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he was exposed to acts of violence while in the high security juvenile detention facilities. This mitigating circumstance is given some weight.

- (44) Defendant sustained head trauma at age 14 when he was hit in the head with a metal pipe and/or a metal chair, which resulted in metal fragments being left in his skull while in juvenile detention facility.**

This mitigating factor was found to exist by the jury by a vote of 10-2. Based on the testimony of Dr. Harper and Dr. Rubino, the Court finds that Defendant has proven by the greater weight of the evidence that he sustained head trauma at age 14 when he was hit in the head with a metal pipe and/or a metal chair, which resulted in metal fragments being left in his skull while in juvenile detention facility. This mitigating circumstance is given some weight.

- (45) Defendant sustained head trauma and loss of consciousness when he was hit by a car at the approximate age of 8 or 9.**

This mitigating factor was not found to exist by the jury. Based upon the credibility of the evidence, the Court finds that Defendant has not proven by the greater weight of the evidence that he sustained head trauma and loss of consciousness when he was hit by a car at the approximate age of 8 or 9. Thus, it is given no weight.

- (46) Defendant seeks to improve his knowledge base by reading articles and news.**

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Dunn, the Court finds that Defendant has proven by the greater weight of the evidence that he seeks to improve his knowledge base by reading articles and news. This mitigating circumstance is given very little weight.

(47) Defendant has spent years in solitary confinement (close management).

This mitigating factor was found to exist by five members of the jury. The Court finds that Defendant has proven by the greater weight of the evidence that he has spent years in solitary confinement (close management). This mitigating circumstance is given little weight.

(48) Defendant cared for homeless boys on the streets.

This mitigating factor was not found to exist by the jury. The Court finds that Defendant has not proven by the greater weight of the evidence that he cared for homeless boys on the streets. Thus, it is given no weight.

(49) Defendant has mentored other inmates.

This mitigating factor was not found to exist by the jury. Based on the testimony of Steven McDonald, Rico Wright, Johnny Burgess, Billy Ford, Demetrius Mackey, Denoit Deris, Jacary Anderson, and Chloe Johnson, the Court finds that Defendant has proven by the greater weight of the evidence that he has mentored other inmates. This mitigating circumstance is given very little weight.

(50) Defendant has shared food and hygiene products, as well as paper, envelopes, and stamps, with other inmates.

This mitigating factor was not found to exist by the jury. Based on the testimony of McDonald, Wright, Burgess, Ford, Mackey, Deris, and Anderson, the Court finds that Defendant has proven by the greater weight of the evidence that he has shared food and hygiene products, as well as paper, envelopes, and stamps, with other inmates. This mitigating circumstance is given very little weight.

- (51) Defendant has encouraged the relationship between his girlfriend, Chloe Johnson, and her mother.**

This mitigating factor was not found to exist by the jury. Based on the testimony of Johnson, the Court finds that Defendant has proven by the greater weight of the evidence that he has encouraged the relationship between Johnson and her mother. This mitigating circumstance is given very little weight.

- (52) Defendant suffers from attachment issues.**

This mitigating factor was not found to exist by the jury. The Court finds that Defendant has not proven by the greater weight of the evidence that he cared for homeless boys on the streets. Thus, it is given no weight.

- (53) Defendant suffers from post-traumatic stress disorder (PTSD).**

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he suffers from PTSD. This mitigating circumstance is given little weight.

- (54) Defendant has frontal lobe damage.**

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Rubino and Dr. Wu, the Court finds that Defendant has proven by the greater weight of the evidence that he has frontal lobe damage. This mitigating circumstance is given some weight.

- (55) Defendant has signs of presumptive diagnosis of chronic traumatic encephalopathy (CTE).**

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Wu, the Court finds that Defendant has proven by the greater weight of the evidence that he has signs of presumptive diagnosis of CTE. This mitigating circumstance is given some weight.

(56) Defendant has suffered concussions.

This mitigating factor was not found to exist by the jury. The Court finds that Defendant has not proven by the greater weight of the evidence that he has suffered concussions. This mitigating circumstance is given no weight.

(57) Defendant has neocortex damage.

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Wu, the Court finds that Defendant has proven by the greater weight of the evidence that he has neocortex damage. This mitigating circumstance is given some weight.

(58) Defendant has suffered a subdural hematoma as evidenced by a right frontal hygroma.

This mitigating factor was found to exist by two members of the jury. Based on the testimony of Dr. Rubino and Dr. Wu, the Court finds that Defendant has proven by the greater weight of the evidence that he has suffered a subdural hematoma as evidenced by a right frontal hygroma. This mitigating circumstance is given some weight.

(59) There is disparity in Defendant's neuropsychological tests, which is found in brain injury and consistent with Defendant's imaging studies.

This mitigating factor was found to exist by the jury by a vote of 10-2. Based on the testimony of Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that there is disparity in his neuropsychological tests, which is found in brain injury and consistent with his imaging studies. This mitigating circumstance is given some weight.

(60) Defendant is unable to calibrate or modulate his responses as a result of frontal lobe damage.

This mitigating factor was not found to exist by the jury. In addition, the Court finds that it was not proven by a preponderance of the evidence. Thus, it is given no weight.

- (61) Defendant is unable to conform his behavior due to a significantly comprised neocortex.**

This mitigating factor was not found to exist by the jury. In addition, the Court finds that it was not proven by a preponderance of the evidence. Thus, it is given no weight.

- (62) Defendant suffers brain atrophy.**

This mitigating factor was found to exist by two members of the jury. Based on the testimony of Dr. Rubino, the Court finds that Defendant has proven by the greater weight of the evidence that he suffers from brain atrophy. This mitigating circumstance is given moderate weight.

- (63) Defendant's judgment and decision making is impaired.**

This mitigating factor was not found to exist by the jury. In addition, the Court finds that it was not proven by a preponderance of the evidence. Thus, it is given no weight.

- (64) Defendant has a lack of impulse control.**

This mitigating factor was not found to exist by the jury. In addition, the Court finds that it was not proven by a preponderance of the evidence. Thus, it is given no weight. The Court would note however, that it has already accorded appropriate weight to the Defendant's neurological deficits.

- (65) Defendant cannot appreciate the consequences of his actions.**

This mitigating factor was not found to exist by the jury. In addition, the Court finds that it was not proven by a preponderance of the evidence. Thus, it is given no weight.

- (66) Defendant suffers from racial hypersensitivity.**

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Dunn, the Court finds that Defendant has proven by the greater weight of the evidence that he suffers from racial hypersensitivity. This mitigating circumstance is given very little weight.

(67) Defendant endured institutional failures.

This mitigating factor was unanimously found to exist by the jury. Based on the testimony of Dr. Dunn and Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he has endured institutional failures. This mitigating circumstance is given some weight.

(68) Defendant was diagnosed with attention deficit hyperactivity disorder (ADHD).

This mitigating factor was not found to exist by the jury. Based on the testimony of Dr. Harper, the Court finds that Defendant has proven by the greater weight of the evidence that he was diagnosed with ADHD. This mitigating circumstance is given little weight.

Spencer Hearing

At the Spencer hearing, the Court considered the testimony of Dr. Toomer. Dr. Toomer testified that the Defendant's childhood was a "perfect storm" and that the Defendant experienced toxic stress. The trauma experienced by the Defendant impacted his ability to function psychologically. The Court does not disagree with Dr. Toomer that the Defendant's childhood was a factor in the Defendant's development, which in turn has impaired by the Defendant's ability to project consequences and weigh alternative courses of action.

Nevertheless, the Court finds that the Defendant is not incapable of controlling his behavior. The Defendant can plan and understands the nature and character of his actions. Dr. Toomer's testimony is given some weight in mitigation.

Conclusion

"The process of weighing aggravating factors and mitigating circumstances is not a mechanical or mathematical process. In other words, [one] should not merely total the number of aggravating factors and compare that number to the total number of mitigating

circumstances.” Fla. Std. Jury Instr. (Crim.) 7.11(a). The Court has considered and weighed the proven aggravating and mitigating circumstances. Mindful that a human life is at stake, the Court, nonetheless, finds that the aggravating circumstances far outweigh the mitigating circumstances.

The Defendant, a physically imposing man who stands well over six feet tall, mercilessly beat his smaller, physically weaker cellmate to death. Due to a mixture of racial animus, a disdain for a man’s apparent lack of cleanliness, and a dislike of his “vibe,” the Defendant chose to viciously murder and humiliate him. The Defendant does not lack intelligence or an ability to understand the nature of his actions.

Of particular significance, the Defendant was serving a life sentence at the time he committed the heinous, atrocious, and cruel murder of his cellmate. All 12 jurors in this case determined that death is the appropriate sentence. The Court agrees. This case falls within the limited class of murders for which the death penalty is reserved.

Accordingly, it is **ORDERED** and **ADJUDGED** that the Defendant, Shawn Rogers, is hereby sentenced to **DEATH** in the manner prescribed by law for the first degree murder of Ricky Dean Martin.

For the crime of kidnapping to terrorize or inflict bodily harm, the Defendant is sentenced to life in prison without the possibility of parole, to be served concurrently.

The Defendant’s sentence of death is subject to automatic review by the Florida Supreme Court. The Office of the Public Defender is appointed for the purposes of appeal.

DONE and ORDERED in open court at the Santa Rosa County Courthouse in Milton,
Florida, this 18th day of December, 2017.


JOHN F. SIMON, JR.
Circuit Judge

Copies provided in open court to:

Shawn Rogers, Defendant
Kenneth L. Brooks, Jr., Esq., Appointed Counsel for the Defendant
William Wade, Esq., Counsel Appointed for Public Interest
Jonathan V. Schlechter, Assistant State Attorney
Clifton A. Drake, Assistant State Attorney