IN THE THIRTEENTH JUDICIAL CIRCUIT COURT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
Criminal Justice and Trial Division

STATE OF FLORIDA **CASE NO.: 14-CF-011992**

v.

GRANVILLE RITCHIE, **DIVISION: TR1**
Defendant.
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CAPITAL SENTENCING ORDER

On August 28, 2014, the Hillsborough County Grand Jury indicted Defendant, Granville Ritchie, for Murder in the First Degree (count one); Sexual Battery, Victim Less than Twelve Years of Age, Defendant Over the Age of Eighteen (count two); and Aggravated Child Abuse (count three). On September 25, 2019, a jury found Defendant guilty of count one of Murder in the First Degree, as charged. As to count one, the jury specifically found that the killing was both premediated murder and felony murder, based on the finding that the murder occurred during the course of a sexual battery on a victim less than twelve years of age, with the defendant being over the age of eighteen, or was committed during the course of aggravated child abuse. Defendant was also found guilty of Sexual Battery (victim less than twelve years of age, defendant over eighteen years of age), as charged, and Aggravated Child Abuse, as charged, on counts two and three, respectively.

On September 26 and 27, 2019, the Court conducted the penalty phase of the trial, where the State and Defense presented testimony and evidence. The State presented the testimony of the child-victim's mother, Felicia Demerson, and Dr. James Claude Upshaw Downs, and introduced into evidence photographs of the child-victim, Felicia Williams.

During the penalty phase, Defendant presented the testimony of Dr. Hyman Eisenstein, Dr. Joseph Chong-Sang Wu, and law enforcement consultant Aubrey Land. Defendant introduced into evidence a video depicting the area of Jamaica where he grew up and people Defendant knew while living there.

After the defense rested, the State presented in rebuttal the testimony of Georgette Redley, Dr. Lawrence Holder, and Dr. Emily Lazarou. Following the penalty phase testimony and evidence, the jury unanimously determined that Defendant should be sentenced to death for the first-degree murder of Felecia Williams.

The Court held a *Spencer*[1] hearing on January 7, 2020. At that hearing, neither party presented additional witnesses or evidence. As ordered by the Court at the January 7, 2020 hearing, the State and Defendant filed memoranda either in support of or in opposition to the imposition of the death penalty in this case.

In imposing this sentence, the Court has taken into account the verdict of the jury, the evidence presented at both the guilt and penalty phase of the trial, the *Spencer* hearing, and the sentencing memoranda submitted by the State and Defense.[2] The Court now finds as follows:

FACTS

On May 16, 2014, Defendant and Eboni Wiley picked up the child-victim, Felicia Williams, from her home in Tampa. Ms. Wiley was a friend of the victim's family, and she and Defendant had recently become involved in a romantic relationship. After retrieving the victim from her home, Defendant drove Ms. Wiley and the victim to a fast food drive-through, to get food for the child-victim, and then to his mother's apartment in Temple Terrace. Upon arrival,

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

[2] A Presentence Investigation Report was not ordered in this case. *See Rose v. State*, 461 So. 2d 84, 87 (Fla. 1984) (stating that "[t]here is no requirement that a presentence investigation report be ordered in capital cases").

Defendant provided Ms. Wiley with "Molly," a drug similar in its effects to Ecstasy. After a short time at the apartment, Defendant sent Ms. Wiley from the apartment to procure marijuana for him. Ms. Wiley initially attempted to take the victim with her to make the purchase of marijuana. However, Defendant intervened and instructed Ms. Wiley to leave the child-victim with him at the apartment because Ms. Wiley had no driver's license and would have drugs in the car. Ms. Wiley relented and agreed to leave young Felicia Williams alone and in Defendant's care.

While alone with Felicia, Defendant brutally attacked her, stripped her of her clothing, and sexually battered her. During the sexual battery, Defendant violently inflicted blunt force injury to the victim's head and body and caused several injuries, both external and internal, to her genitals by forcefully penetrating the child-victim's vagina with his penis. In the course of the attack, Defendant manually strangled the child-victim with such force that he caused extensive injuries to her neck, including damage to the deep internal muscular and cartilaginous structures. Felicia Williams eventually died as a result of the strangulation. Following the victim's death, Defendant proceeded to conceal his actions by hiding the victim's body from discovery and informing Ms. Wiley that the child-victim had left the apartment to buy candy at a nearby pharmacy. Not finding the child-victim at the store, Ms. Wiley returned to the apartment, where she and Defendant fabricated a story concerning the victim's whereabouts. Defendant also contacted his mother, and informed her that the victim was missing and advised her regarding the fabricated story, in the event she was questioned by law enforcement.

Later that evening, Defendant drove Ms. Wiley back to Tampa and dropped her off. He then returned to the apartment and placed the victim's body in a rolling suitcase in order to relocate the body for disposal. Defendant then rolled the suitcase out of the apartment and to the vehicle he was driving, where he placed the suitcase containing the victim's body into the trunk of the car.

He then proceeded to drive away from the apartment late that night, travelling across Hillsborough County, through the City of Tampa toward Clearwater, across the Courtney Campbell Causeway. Shortly after crossing the main bridge of the causeway, Defendant entered onto a side access road running along the north side of the causeway. After travelling approximately two miles down the access road, Defendant came to an area of thick vegetation that provided concealment from the main road of the causeway. It was at this location that Defendant removed the suitcase from the trunk of the vehicle, retrieved the child-victim's body from the suitcase, and dumped her into the dark waters of the bay. After disposing of the victim's body, Defendant travelled to St. Petersburg to stay the night at the home of another girlfriend, Kellisa Kelley. At some point, Defendant disposed of the victim's clothing and the suitcase used to transport her body.

While Defendant was actively attempting to conceal any evidence of his rape and murder of Felicia Williams, law enforcement and the victim's family met with Ms. Wiley in Temple Terrace, near the location of the crime. Ms. Wiley initially advised law enforcement and the victim's family as to the fabricated story concocted by Defendant, that she had taken the victim to visit a friend of hers, and while at that location, the child had run away from her friend's apartment. At first, Ms. Wiley made no mention of Defendant ever having involvement with the child-victim. However, after extensive questioning by law enforcement, Ms. Wiley finally yielded, and admitted that she and Defendant had taken the victim to Defendant's apartment, where the child-victim disappeared while in Defendant's care. After the discovery of Defendant's identity, law enforcement made contact with him and ultimately placed Defendant into custody. On May 17, 2014, Felicia Williams' body was recovered on the north side of the Courtney Campbell Causeway in Old Tampa Bay, in the same approximate location Defendant had dumped her, washed up against the rocky shoreline of the causeway.

AGGRAVATING FACTORS

Section 921.141, Florida Statutes, provides that the burden is on the State during the sentencing portion of a capital felony trial to prove, beyond a reasonable doubt, the existence of aggravating factors to support the imposition of the death penalty. § 921.141(2)(a), Fla. Stat. (2019); *Johnson v. State*, 969 So. 2d 938, 956 (Fla. 2007); *Hernandez-Alberto v. State*, 889 So. 2d 721, 733 (Fla. 2004); *Clark v. State*, 443 So.2d 973, 976 (Fla.1983). The only matters that may be considered as aggravating factors in a capital sentencing proceeding are those specified by statute. § 921.141(6), Fla. Stat. (2019); *Robertson v. State*, 187 So. 3d 1207, 1217 (Fla. 2016).

In this case, the State argues the existence of the following aggravating factors pursuant to section 921.141(6), Florida Statues: (1) The victim was less than twelve years of age; (2) the first-degree murder was committed while Defendant was engaged in the commission of a sexual battery; and (3) the first-degree murder was especially heinous, atrocious, or cruel.

1. The victim of the capital felony was a person less than twelve years of age. § 921.141(6)(l), Fla. Stat. (2019).

The Florida Legislature has deemed that children, under the age of twelve, are "by definition children of a tender age who are particularly vulnerable" to acts of abuse. *Smith v. State*, 28 So. 3d 838, 865 (Fla. 2009) (quoting *Leon v. State,* 498 So.2d 680, 682 (Fla. 3d DCA 1986)). Courts have given "great weight" to the fact that a child-victim was under the age of twelve at the time of the sexual battery and homicide. *See Smith*, 28 So. 3d at 874. The jury unanimously found that the State proved this aggravating factor beyond a reasonable doubt. **The Court agrees with the jury's finding that the State has proven this aggravator beyond a reasonable doubt and gives this aggravating factor great weight in determining the appropriate sentence to impose.**

2. **The capital felony was committed while the defendant was engaged in the commission of a sexual battery; § 921.141(6)(d), Fla. Stat. (2019).**[3]

In this case, the State presented testimony and evidence demonstrating that Defendant sexually battered the child-victim at the time of her murder, including the fact that her body was found unclothed and that she suffered blunt force trauma and lacerations on both the inside and outside of her genitalia at or around the time of her death. Courts have given "great weight" and "significant weight" to the fact that the homicide occurred while the defendant was engaged in the commission of a sexual battery. *See McWatters v. State*, 36 So. 3d 613, 642 (Fla. 2010); *Smith*, 28 So. 3d at 874. The jury unanimously found that the State proved this aggravating factor beyond a reasonable doubt. The Court also finds that that the State has established the existence of this aggravator beyond a reasonable doubt, that Defendant murdered the child-victim during the commission of a sexual battery. **The Court gives this aggravating factor great weight in determining the appropriate sentence to impose.**

3. **The capital felony was especially heinous, atrocious, or cruel. § 921.141(6)(h), Fla. Stat. (2019).**

The Florida Supreme Court has provided that the heinous, atrocious, or cruel (HAC) aggravator is applicable "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." *Rose v. State*, 787 So. 2d 786, 801 (Fla. 2001) (quoting *Guzman v. State*, 721 So. 2d 1155, 1159 (Fla. 1998)). The HAC aggravator is reserved for murders that are "conscienceless or pitiless and unnecessarily torturous to the victim." *Id.*

[3] The Court notes that Defendant argues in his sentencing memorandum that this aggravating factor should be determined to be unconstitutional, because it "automatically expands the class of those eligible for the death penalty," fails to serve "the constitutionally mandated channeling function required by the Eighth Amendment," and turns a mitigating circumstance, lack of premeditation, into an aggravating circumstance. As to Defendant's arguments, the Court finds that the Florida Supreme Court has previously rejected such claims. *See McWatters v. State*, 36 So. 3d 613, 644 (Fla. 2010); *Banks v. State*, 700 So. 2d 363, 367 (Fla. 1997); *Mills v. State*, 476 So. 2d 172, 178 (Fla. 1985).

> 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. Thus, if a victim is killed in a torturous manner, a defendant need not have the intent or desire to inflict torture, because the very torturous manner of the victim's death is evidence of a defendant's indifference.

Barnhill v. State, 834 So. 2d 836, 849–50 (Fla. 2002) (internal citations omitted).

This aggravator has been repeatedly upheld in cases "where the defendant committed a sexual battery against the victim preceding the killing, causing fear and emotional strain in the victim." *Banks v. State*, 700 So. 2d 363, 366–67 (Fla. 1997) (upholding the HAC aggravator where the evidence of the case "established that the ten-year-old victim was sexually battered for approximately twenty minutes before appellant finally shot her," and that "the young victim suffered greatly, both physically and emotionally"). Likewise, a murder committed by strangulation, has been considered "prima facie evidence of HAC." *See Barnhill*, 834 So. 2d at 850 (stating that "strangulation of a conscious victim involves foreknowledge and the extreme anxiety of impending death").

In this case, the jury unanimously found that the State proved the aggravating factor of HAC beyond a reasonable doubt. The Court also finds that Defendant murdered the victim in a heinous, atrocious, or cruel manner, and that the State established the existence of this aggravator beyond a reasonable doubt. Specifically, the Court finds that the testimony of Dr. Upshaw Downs and Dr. Randall Alexander establishes that the child-victim suffered numerous injuries to her head, neck, body, and genitalia during the course of the sexual battery and homicide. Their testimony also established that the extensive injuries to the child-victim's genitals were indicative of forced sexual penetration. These injuries, when perpetrated against a nine-year-old girl, would be particularly painful as her body was not physiologically prepared to engage in sexual intercourse.

Additionally, the testimony from Dr. Upshaw Downs, regarding the extensive injuries to the child-victim's neck, signs of internal injury and bleeding in the neck and head, hemorrhaging of the blood vessels of the eyes, and deep injuries to her tongue cause by forceful biting, all indicate that the victim was alive, conscious, and struggling for her life during the rape and homicide. Moreover, the Defendant manually strangled the victim in order to kill her. The expert testimony established that this process took several minutes, at a minimum, to complete, allowing the victim to be fully aware of her impending death. Taken together, the facts in this case establish that the child-victim suffered a horrendous, physically painful, and psychologically torturous death at the hands of Defendant.

In *Caylor v. State*, a case involving the sexual battery and death by strangulation of a thirteen-year-old female victim, the Florida Supreme Court upheld the trial court's finding of the HAC aggravator due to the "foreknowledge and the extreme anxiety of impending death," experienced by the conscious juvenile victim. 78 So. 3d 482, 499 n. 8 (Fla. 2011); *see also Davis v. State*, 698 So. 2d 1182, 1194 (Fla. 1997). The Florida Supreme Court has deemed the HAC aggravator to be among the weightiest and most serious of aggravators in the statutory scheme. *Caylor*, 78 So. 3d at 500; *Johnson v. State*, 969 So. 2d 938, 958 (Fla. 2007); *Simmons v. State*, 934 So. 2d 1100, 1122–23 (Fla. 2006). **The Court gives this aggravating factor great weight in determining the appropriate sentence to impose.**

SUFFICIENCY OF THE AGGRAVATING FACTORS

A jury must unanimously find that sufficient aggravating factors exist to warrant imposition of a sentence of death. § 921.141(2)(b)2a, Fla. Stat. (2019). In this case, the jury unanimously found that the above aggravating factors, proven by the State beyond a reasonable doubt, are sufficient to warrant the imposition of a death sentence. The Court also finds that the

above aggravators have been proven beyond a reasonable doubt and are sufficient to warrant a sentence of death. Therefore, the Court must now consider Defendant's proposed mitigating circumstances. § 921.141(2)(b)2b, Fla. Stat. (2019).

MITIGATING CIRCUMSTANCES

Defendant alleges four statutory mitigating circumstances under section 921.141(7), Florida Statutes, and numerous nonstatutory mitigating circumstances. A mitigating circumstance is "any aspect of a defendant's character or of the record and any of the circumstances of the offense that reasonably may serve as a basis for imposing a sentence less than death." *Douglas v. State*, 878 So. 2d 1246, 1258 (Fla. 2004). "Evidence is mitigating if, in fairness or in the totality of the defendant's life or character, it may be considered as extenuating or reducing the degree of moral culpability for the crime committed." *Spann v. State*, 857 So. 2d 845, 858 (Fla. 2003) (citing *Evans v. State,* 808 So. 2d 92 (Fla. 2001)). "A factor is mitigating in nature if it falls within a statutory category or otherwise meets the definition of a mitigating circumstance." *Ford v. State*, 802 So. 2d 1121, 1134 (Fla. 2001). "Categories of nonstatutory mitigating circumstances include but are not limited to the following: abused or deprived childhood, contribution to community or society, remorse and potential for rehabilitation, disparate treatment of an equally culpable codefendant, and charitable or humanitarian deeds." *Id.* at 1135, n. 29 (citing *Campbell v. State*, 571 So. 2d 415 (Fla. 1990)). "The trial court, during the penalty phase of a capital trial, is required to expressly find, consider and weigh" all statutory and non-statutory mitigation "which appears anywhere in the record." *Donaldson v. State*, 722 So. 2d 177, 188 (Fla. 1998) (citations omitted).

Unlike the State's burden of proving the existence of aggravating circumstances beyond a reasonable doubt, a defendant need only establish the existence of mitigating circumstances by the

greater weight of the evidence. *Ford*, 802 So. 2d at 1133–34. As stated by the Florida Supreme Court:

> Whenever a reasonable quantum of competent, uncontroverted evidence of mitigation has been presented, the trial court must find that the mitigating circumstance has been proved. A trial court may reject a defendant's claim that a mitigating circumstance has been proved if the record contains substantial evidence to support the trial court's rejection of the mitigating circumstance.

Hoskins v. State, 965 So. 2d 1, 16 (Fla. 2007) (quoting *Nelson v. State*, 850 So. 2d 514, 529 (Fla. 2003)). "The decision as to whether a mitigating circumstance has been established is within the trial court's discretion." *Hall v. State*, 614 So. 2d 473, 479 (Fla. 1993).

Additionally, there are situations where a mitigating circumstance may be found to be supported by the record, but is given no weight by the trial court. *See Trease v. State*, 768 So. 2d 1050, 1055 (Fla. 2000) (stating "while a proffered mitigating factor may be technically relevant and must be considered by the sentencer because it is generally recognized as a mitigating circumstance, the sentencer may determine in the particular case at hand that it is entitled to no weight for additional reasons or circumstances unique to that case."); *see also Coday v. State*, 946 So. 2d 988, 1003 (Fla. 2006) (stating that once a trial court determines that evidence exists to support a proposed mitigating circumstance, it must then determine whether that mitigating circumstance truly is mitigating).

The jury in this case found that one or more mitigating circumstance, presented by Defendant, was established by the greater weight of the evidence. As such, the Court will consider the proposed mitigating circumstances, in light of the testimony and evidence presented at trial, to determine whether the sentence of death is appropriate in this case.

The Defendant requested, and the Court instructed the jury on, the following statutory mitigating circumstances:

1. **The defendant has no significant history of prior criminal activity. § 921.141(7)(a), Fla. Stat. (2019).**

Defendant asserts that he has no significant history of criminal activity preceding the instant case. The Court finds that this mitigating circumstance was established by the greater weight of the evidence, and should be afforded moderate weight.

2. **The capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance. § 921.141(7)(b), Fla. Stat. (2019).**

Defendant claims that he murdered the child-victim while under extreme mental or emotional disturbance. The Florida Supreme Court has held that "any emotional disturbance relevant to the crime must be considered and weighed by the sentencer, no matter what the statutes say." *Cheshire v. State*, 568 So. 2d 908, 912 (Fla. 1990). Notably, "[a] defendant can be emotionally and mentally disturbed or suffer from a mental illness but still have the ability to experience cool and calm reflection, make a careful plan or prearranged design to commit murder, and exhibit heightened premeditation." *Evans v. State*, 800 So. 2d 182, 193 (Fla. 2001).

A trial court has broad discretion in determining the applicability of a particular mitigating circumstance, when its decision is supported by competent substantial evidence. *Philmore v. State*, 820 So. 2d 919, 936 (Fla. 2002). "[W]ith regard to the issue of expert psychological evaluations of a defendant's mental health, this Court has explained that 'expert testimony alone does not require a finding of extreme mental or emotional disturbance. Even uncontroverted opinion testimony can be rejected, especially when it is hard to reconcile with the other evidence presented in the case.'" *Id.* (quoting *Knight v. State*, 746 So. 2d 423, 436 (Fla.1998)); *see Smith v. State*, 170 So. 3d 745, 762 (Fla. 2015) (stating "the trial court may disregard expert opinion where it determines that the opinion is unsupported by the facts or conflicts with other evidence").

During the penalty phase of Defendant's trial, the defense called Dr. Hyman Eisenstein, a licensed psychologist, specializing in clinical neuropsychology, to testify as to Defendant's mental

health at the time of the offense. Over a period of approximately eight visits with Defendant at the Hillsborough County jail, Dr. Eisenstein performed neuropsychological evaluations on Defendant and conducted a number of clinical interviews. As a result of his examinations, Dr. Eisenstein concluded that Defendant exhibits signs of "unequivocal brain damage" resulting from prior instances of impact trauma to the frontal lobe of his brain. Dr. Eisenstein testified that the frontal lobe controls "executive functioning," and as a result of damage suffered to that area of the brain, Defendant exhibits neuropsychological deficits, executive functioning deficits, impulsivity, and problems with judgment and decision-making when under stress. Based on his testing, combined with Defendant's self-reporting of historical head injuries and cognitive difficulties, Dr. Eisenstein found Defendant to exhibit low-average intelligence, deficits in the executive functioning of the brain, Attention Deficit Disorder (ADD), Attention Deficit Hyperactivity Disorder (ADHD), and Post Traumatic Stress Disorder (PTSD).

While Dr. Eisenstein acknowledged that the alleged incidents where Defendant suffered head injuries were mostly self-reported with no records or documentation to corroborate, he concluded that the evidence derived from his evaluations of Defendant, combined with reports of Defendant's historical cognitive deficits, indicates that traumatic brain injuries explain Defendant's behavior. Ultimately, Dr. Eisenstein opined that Defendant committed the instant capital offense while he was under the influence of extreme mental or emotional disturbance.

To bolster the opinion of Dr. Eisenstein, the defense requested that MRI and PET scans be performed on Defendant's brain, and retained Dr. Joseph Chong-Sang Wu, a medical doctor specializing in the field of neuropsychiatry, to interpret the results of these imaging scans. During the penalty phase of the trial, Dr. Wu testified that he conducted "statistical image analysis" on the results of the PET and MRI scans of Defendant's brain, to determine the existence of

abnormalities. Dr. Wu testified that his analysis of these exams revealed multiple abnormalities in Defendant's brain, consistent with traumatic brain injury, including low "neocortical to cerebellar activity" and damage to the frontal lobe, resulting in executive functioning deficits, a lack of impulse control, and an inability to regulate aggressive behavior. The scans allegedly also revealed evidence of abnormalities in the "limbic system" of Defendant's brain, the area that controls fear, aggression, and sexual drive. Dr. Wu testified that his analysis is consistent with Defendant's self-reports of multiple head injuries throughout his life. Dr. Wu concluded that Defendant's "multiple brain abnormalities" have an adverse effect on Defendant's ability to regulate his behavior.

To rebut the testimony of Dr. Eisenstein and Dr. Wu, the State called Dr. Lawrence Holder and Dr. Emily Lazarou to testify before the jury at the penalty phase of the trial. Dr. Holder, board certified in diagnostic radiology and nuclear medicine, testified that the methodology utilized by Dr. Wu to analyze Defendant's imaging results is not accepted at all in the scientific community of radiologists and nuclear medicine doctors. The doctor emphasized that PET and MRI scans are not used in the medical community as a method to diagnose personality disorders or nonspecific brain injuries, and are not used to confirm neuropsychological testing or results, contrary to Dr. Wu's testimony. Dr. Holder also reviewed the results of Defendant's PET scan and MRI results and opined that he found no sign whatsoever of brain damage or abnormality.

Dr. Lazarou, a general and forensic psychiatrist, also testified during the penalty phase of Defendant's trial. In preparation for her testimony, she reviewed Defendant's medical, employment, and school records, reviewed the case file and recording of Defendant's interview with law enforcement following his arrest, and reviewed the transcripts of interviews conducted with Defendant's family and associates who were involved in the circumstances of the offense. Dr. Lazarou also conducted a forensic psychiatric evaluation of Defendant. Dr. Lazarou testified

that she found no evidence from Defendant's records, or from her own evaluation, that Defendant suffered any sort of traumatic head injury; that he suffered from ADD, ADHD, or PTSD; or that he suffered from any diminished cognitive or intellectual functioning. Instead, Dr. Lazarou diagnosed Defendant primarily with Antisocial Personality Disorder. In support of her diagnosis, Dr. Lazarou emphasized Defendant's pattern of deceitfulness and manipulation of others for his own benefit or pleasure, his consistent irresponsibility with regard to his financial obligations, and his lack of remorse for having hurt or mistreated others, among other criteria for a diagnosis of Antisocial Personality Disorder. Dr. Lazarou supported her findings by pointing out Defendant's pattern of manipulating and using women in his life to financially support him, as well as the manipulation of Eboni Wiley, prior to the offense, in order to get to the child-victim in this case. Dr. Lazarou underscored that the actions taken by Defendant, preceding and following the rape and murder of the child-victim in this case, were carefully thought out and executed in an effort to avoid detection and responsibility for the offense. She explained that these are not the behaviors of someone who was incapable of controlling their actions due to mental defect, but were instead the result of careful forethought and planning.

After evaluation of the testimony presented, the Court finds that the opinions of the experts conflict radically. The defendant bears the burden of establishing the existence of mitigating factors. *Ford*, 802 So. 2d at 1133–34. It is also within the discretion of the Court to reject a proposed statutory mitigator where defense experts' testimony is rebutted by the evidence adduced at trial or the testimony of another expert. *Smith*, 170 So. 3d at 762. In this case, the Court finds the testimony of Dr. Holder and Dr. Lazarou more credible and persuasive than that of Dr. Eisenstein and Dr. Wu. Therefore, the Court finds that Defendant has failed to meet his burden in establishing the existence of this mitigating factor. The Court finds that Defendant has failed to

present any competent evidence to suggest that, at the time of the instant capital offense, he was laboring under the influence of extreme mental or emotional disturbance. To the contrary, the Court finds that the evidence introduced clearly indicates that Defendant's behavior at the time leading up to the murder and afterward was calculated, rational, and goal-directed toward executing the offense and evading detection afterward. Based on the competent, substantial evidence and testimony presented refuting any assertion that Defendant was under the influence of an extreme mental or emotional disturbance at the time of the offense, the Court finds Defendant has failed to establish the existence of this factor.

3. **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. (2019).**

A court may consider a medical expert's opinion as to whether the defendant could differentiate between right and wrong and whether he or she could understand the consequences of his or actions. *Ponticelli v. State*, 593 So. 2d 483, 490 (Fla. 1991), *vacated on other grounds*, *Ponticelli v. State*, 506 U.S. 802 (1992). A court must consider and weigh a defendant's alleged mitigating evidence, "when contained anywhere in the record to the extent it is believable and uncontroverted." *Allen v. State*, 137 So. 3d 946, 965 (Fla. 2013) (internal quotations omitted). However, the sentencing court may reject mitigating evidence even when offered by an expert "if the record contains competent, substantial evidence supporting its rejection." *Oyola v. State*, 99 So. 3d 431, 445 (Fla. 2012). A defendant fails to establish this mitigating circumstance when his purposeful actions surrounding the offense are indicative of someone who knew his criminal acts were wrong and who could conform his conduct to the law if he so chose to do so. *Hoskins v. State*, 965 So. 2d 1, 18 (Fla. 2007) (citing *Nelson v. State*, 850 So. 2d 514 (Fla. 2003)).

In this case, Dr. Eisenstein testified that he interviewed and evaluated Defendant over a series of visits. Dr. Eisenstein also reviewed Defendant's medical and school records and administered testing to determine Defendant's intellectual level, IQ, and cognitive functioning. According to Dr. Eisenstein, Defendant exhibits signs of "unequivocal brain damage" resulting in neuropsychological deficits, executive functioning deficits, impulsivity, and problems with judgment and decision-making when under stress. Based on his testing, combined with Defendant's self-reporting of historical head injuries and resulting mental deficits, Dr. Eisenstein found Defendant to exhibit low-average intelligence, deficits in the executive functioning of the brain, ADD, ADHD, and PTSD. Ultimately, Dr. Eisenstein concluded that Defendant's capacity to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law was substantially impaired.

In support of Dr. Eisenstein's findings, Dr. Wu testified that his analysis of the imaging scans performed on Defendant revealed multiple abnormalities in Defendant's brain, including low "neocortical to cerebellar activity" and damage to the frontal lobe, resulting in executive functioning deficits, a lack of impulse control, and an inability to regulate aggressive behavior. The scans allegedly also revealed evidence of abnormalities in the "limbic system" of Defendant's brain, the area that controls fear, aggression, and sexual drive. Dr. Wu testified that his analysis is consistent with Defendant's self-reports of multiple head injuries throughout his life. Dr. Wu concluded that Defendant's "multiple brain abnormalities" have an adverse effect on Defendant's ability to regulate his behavior.

Contrary to the findings of the defense experts, Dr. Holder testified that his review of Defendant's PET scan and MRI revealed no sign whatsoever of brain damage or abnormality, and that the methodology utilized by Dr. Wu to analyze Defendant's imaging results is not at all

accepted in the scientific community of radiologists and nuclear medicine doctors. Dr. Holder clarified that MRI and PET scans are never utilized in the medical community as a reliable method to diagnose personality disorders or nonspecific brain injuries, and are never used to confirm neuropsychological testing or results. Correspondingly, Dr. Eisenstein also acknowledged that both a CT scan of Defendant performed in May of 2012 and an MRI performed in June of 2019 both revealed normal brain functioning.

Likewise, Dr. Lazarou found that her psychiatric evaluation of Defendant, as well as her review of Defendant's past records, the numerous document's associated with this case, including the recording of Defendant's interview with law enforcement following his arrest, revealed no evidence that Defendant suffered any sort of traumatic head injury; that he suffered from ADD, ADHD, or PTSD; or that he suffered from any diminished cognitive or intellectual functioning. Instead, she primarily diagnosed Defendant with Antisocial Personality Disorder, exhibited by Defendant's history of manipulation and victimization of others, especially the women in his life, and his total lack of remorse for the abuse he inflicts.

Dr. Lazarou accentuated that the actions taken by Defendant preceding and following the rape and murder of the child-victim in this case were carefully thought out and executed in an effort to avoid detection and responsibility of the offense. These acts included manipulating people associated with Defendant before and after the offense. Specifically, Dr. Lazarou characterized that Defendant "conned" Eboni Wiley, prior to the offense, in order to get to the child-victim, persuaded Ms. Wiley and his mother to provide false information to law enforcement to deflect responsibility from himself, and also instructed his girlfriend, Kellisa Kelly, from jail, to limit her cooperation with the State to help hinder the prosecution. Dr. Lazarou concluded that Defendant's behaviors are not those of an individual who is mentally incapable of controlling his actions, or

who does not understand the consequences of what he is doing, but were instead the result of careful forethought and planning.

At trial, evidence was presented regarding Defendant's actions leading up to and following the commission of the sexual battery and murder. First, after retrieving the child victim with Ms. Wiley, Defendant insisted that they pick up fast food for the victim and go to his apartment, rather than go to eat at a restaurant, as was initially planned. Then, once at the apartment, Defendant provided drugs to Ms. Wiley, and eventually sent her to retrieve additional drugs, and demanded that the child-victim be left alone with him instead of going with Ms. Wiley.

Then, following the rape and murder, Defendant took decisive action to prevent discovery of the crime. In that regard, Defendant sent Ms. Wiley out to search for the victim and took steps to delay her return to the apartment to allow additional time for him to conceal the victim's body. After the victim's body was hidden inside of a suitcase, ready for transport, Defendant contacted multiple parties to ensure that everyone would have a consistent story concerning the disappearance of the victim, and to prevent law enforcement from learning of his involvement. Once attention was drawn away from him, Defendant transported the victim's body across the county and purposefully disposed of the body into the bay, to further help conceal his crime. Likewise, once he was taken into custody and questioned by law enforcement, Defendant continued to attempt to minimize his involvement with the death of the victim.

Ultimately, the Court finds the planning and actions executed by Defendant prior to, at the time of, and following the instant sexual battery and homicide are entirely inconsistent with an individual with an impaired capacity to appreciate the criminality of his conduct, or who was incapable of conforming his conduct to the requirements of the law. Instead, the Court finds that Defendant's activities, at the time, are indicative of an individual who was well aware of his

actions, their criminal nature, and that he proactively operated to avoid detection and the legal ramifications he would suffer if he were to be caught. Therefore, based on the competent, substantial evidence and testimony presented refuting any assertion that Defendant's capacity to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law was substantially impaired, the Court finds that Defendant has failed to establish the existence of this mitigating circumstance.

4. **The existence of any other factors in Defendant's background that would mitigate against imposition of the death penalty. § 921.141(7)(h), Fla. Stat. (2019).**

Under this "catch all" statutory mitigating circumstance, a defendant is afforded the opportunity to establish additional mitigating circumstances that have not been specifically enumerated by statute. "Unlike statutory mitigation that has been clearly defined by the legislature, nonstatutory mitigation may consist of any factor that could reasonably bear on the sentence." *Consalvo v. State*, 697 So. 2d 805, 818 (Fla. 1996). Because these mitigating factors are largely undefined, a defendant must identify the specific factors he or she relies upon. *Lucas v. State*, 568 So. 2d 18, 24 (Fla. 1990). Additionally, this evidence "must still meet a threshold of relevance." *Geralds v. State*, 111 So. 3d 778, 808 (Fla. 2010). To meet this threshold, "the evidence must tend logically to prove or disprove some fact or circumstance which a fact-finder could reasonably deem to have mitigating value." *Id.*

Defendant requested, and the Court instructed the jury on, the following nonstatutory mitigating circumstances:

a. **Defendant suffered a significant head injury as a child but received no medication and has continued to have migraines afterward.**

The Court finds that the only evidence presented regarding head injuries suffered by Defendant were the result of either Defendant's own self-serving statements or from those of his

family. No corroborating evidence was presented other than the testimony of Dr. Wu and Dr. Eisenstein, both of whom received this information from either Defendant or his family. The Court does not find this testimony, based on Defendant own self-serving statements credible. Therefore, the Court finds that this mitigating circumstance was not established by the greater weight of the evidence.

b. <u>Defendant suffered mental and physical abuse by his father and Defendant's father was often absent because of four different families.</u>

Physical abuse and childhood trauma suffered by a defendant during childhood have been recognized as mitigating circumstances in capital cases. *Holsworth v. State*, 522 So. 2d 348, 354 (Fla. 1988) (citing *Herring v. State*, 446 So. 2d 1049, 1057 (Fla. 1984); *Scott v. State*, 411 So. 2d 866 (Fla. 1982)). The Court finds that the video evidence presented by Defendant during the penalty phase of the trial provided uncontroverted evidence that Defendant's father was physically and mentally abusive to Defendant and other members of his family during Defendant's youth. The Court finds that uncontroverted evidence was also presented establishing that Defendant's father was often absent from the home due to having relationships and children with multiple different partners. The Court finds that this mitigating circumstance was established by the greater weight of the evidence, and should be afforded moderate weight.

c. <u>Defendant was raised in a poverty-stricken and violent neighborhood in Kingston, Jamaica.</u>

The Court finds that the video evidence presented by Defendant during the penalty phase of the trial provided evidence as to the conditions of Defendant's childhood neighborhood. The individuals depicted in the video described the poverty associated with the area, and recounted incidents of violence that occurred at the time of Defendant's youth, of which he would have been aware.

The Court acknowledges that the State called Ms. Georgette Redley to rebut Defendant's depiction of the area in which he grew up. Ms. Redley testified that she is of a similar age to Defendant and lived in a nearby neighborhood in St. Andrew, Jamaica. She further testified that Defendant's father was a local community leader and that Defendant would have enjoyed a position of privilege in his community due to his father's status. Ms. Redley alleged that the high school Defendant attended was known as a prestigious school in Jamaica, and that the "Garrison" neighborhood Defendant grew up in was much less dangerous and impoverished during her youth, as opposed to the time Defendant's video evidence was produced. The Court notes that Ms. Redley acknowledged that she did not personally know Defendant or his family, and did not personally live in the neighborhood in which Defendant grew up.

Because Ms. Redley lacked personal knowledge of the conditions Defendant himself endured while growing up, the Court finds that her testimony does not refute the evidence presented by Defendant in regard to this mitigating circumstance. As stated above, a difficult youth and childhood trauma have been recognized as mitigating factors. *Holsworth*, 522 So. 2d at 354. The Court therefore finds that this mitigating circumstance has been established by the greater weight of the evidence, but that it should be given little weight.

d. Defendant was the oldest of eighteen siblings and helped raise them.

The video evidence Defendant presented during the penalty phase of the trial demonstrated that Defendant has a close relationship with his family members and that he helped to financially support his family. The Court finds that this mitigating circumstance was established by the greater weight of the evidence, but should be given little weight.

e. **Defendant was gainfully employed at various jobs such as a worker at Kingston Airport and then at Comtrans Communication making cell phone towers.**

A defendant's employment history is proper mitigation evidence to be considered for the purpose of sentencing in capital cases. *Holsworth*, 522 So. 2d at 354. The video evidence Defendant presented during the penalty phase of the trial demonstrated that Defendant was gainfully employed while living in Jamaica. The Court finds that this mitigating circumstance was established by the greater weight of the evidence, but should be afforded little weight.

f. **Defendant was kind and generous to others and possesses other positive redeeming qualities.**

The video evidence Defendant presented during the penalty phase of the trial depicted individuals who spoke fondly of Defendant, stating that Defendant was known to be generous to people he knew and to the community at large. The Court finds that this mitigating circumstance was established by the greater weight of the evidence, but should be given little weight.

g. **Defendant has a low risk of recidivism.**

A defendant's potential for rehabilitation and productivity within the prison system is proper mitigation evidence to be considered for the purpose of sentencing in capital cases. *Holsworth*, 522 So. 2d at 354. During the penalty phase of Defendant's trial, Dr. Eisenstein testified that, in the course of evaluating Defendant, he administered the "Violence Risk Appraisal Guide," (VRAG) to determine Defendant's risk of recidivism. Dr. Eisenstein concluded that Defendant poses an "8 percent probability of recidivism within seven years," making him a good candidate for life imprisonment and placement in the general population of the prison system. Aubrey Land, a "prison and jail law enforcement consultant," also testified that Defendant is well suited to life in the general population in the Department of Corrections.

Conversely, Dr. Lazarou testified that the VRAG, the test Dr. Eisenstein used to gauge Defendant's possibility of recidivism, is not normally used in the United States and that the test is not an accurate method to determine an individual's chance to commit future crime. Dr. Lazarou explained that the test was created using a population of "over 600 male inmates in a psychiatric prison," all with significant mental health issues and a history of violent offenses, as the baseline. Dr. Lazarou testified that the test was misapplied when used on Defendant when compared against the baseline of the test, specifically a population of violent criminals with severe mental health issues, making Defendant look better than he actually is. Moreover, Dr. Lazarou indicated that Defendant's "victimizer mentality" and demonstrated lack of remorse, resulting from his Antisocial Personality Disorder diagnosis, makes it more likely that Defendant will commit future crime if allowed to do so.

After evaluation of the testimony presented, the Court finds that the opinions of the experts regarding Defendant's possibility of recidivism conflict. As noted before, the defendant bears the burden of establishing the existence of mitigating factors. *Ford*, 802 So. 2d at 1133–34. It is also within the discretion of the Court to reject a proposed mitigator where defense experts' testimony is rebutted by the evidence adduced at trial or the testimony of another expert. *Smith*, 170 So. 3d at 762. In this case, the Court finds the testimony of Dr. Lazarou more persuasive and credible than that of Dr. Eisenstein and Mr. Land. Therefore, the Court finds that Defendant has failed to meet his burden in establishing the existence of this mitigating circumstance.

ADDITIONAL STATUTORY MITIGATING CIRCUMSTANCES

In an abundance of caution, the Court has reviewed each remaining statutory mitigating circumstance. No evidence was presented to support any other statutory mitigating circumstance.

ELIGIBILITY FOR THE DEATH SENTENCE

In the instant case, the jury unanimously found that each of the aggravating factors presented by the State were proven beyond a reasonable doubt and that the aggravating factors outweighed the mitigating circumstances presented by Defendant. The jury unanimously found that Defendant should be sentenced to death. As such, the Court has now conducted its own weighing process, as required by law.

CONCLUSION

The Court has thoroughly reviewed and considered the record concerning Defendant's trial, including both the guilty and penalty proceedings, as well as the memoranda submitted by both the State and the Defense. The Court has also evaluated and weighed the aggravating factors the jury has found to exist beyond a reasonable doubt and the mitigating circumstances established by the evidence. The Court acknowledges that this weighing is not a quantitative comparison, but instead requires a qualitative analysis of each aggravating factor and each mitigating circumstance. The Court has assigned an appropriate weight to each, and finds that the aggravating factors found to exist heavily outweigh the mitigating circumstances presented.

The Court finds that the jury's recommendation to impose a death sentence is consistent with its verdict and is based on the evidence presented regarding the aggravating and mitigating circumstances. The Court agrees with the jury's unanimous recommendation based on its own assessment of the aggravating factors weighed against the mitigating circumstances. The Court finds that the aggravating factors substantially outweigh the mitigating circumstances, and sufficiently warrant a sentence of death in this case. Therefore, the Court finds that the sentence of death is the appropriate penalty the Court should impose for the murder of Felicia Williams, as charged in count one of the Indictment.

Accordingly, it is therefore **ORDERED AND ADJUDGED** that:

As to count one, for the First-Degree Murder of Felicia Williams, the defendant, Granville Ritchie is hereby sentenced to death. Defendant shall be delivered into the custody of the Florida Department of Corrections at the Florida State Prison, where he shall be confined until a date certain selected by the Governor of the State of Florida, and on that date, Defendant shall be executed in a method provided for by the laws of the State of Florida.

As to count two, for the Sexual Battery of a Victim Less than Twelve Years of Age by a Defendant over the Age of Eighteen, committed against Felicia Williams, Defendant shall be sentenced to life imprisonment without the possibility of parole.

As to count three, for the Aggravated Child Abuse of Felicia Williams, Defendant shall be sentenced to thirty (30) years' imprisonment.

Counts one, two, and three shall run consecutively.

Defendant is hereby notified that this sentence is subject to automatic review by the Supreme Court of Florida. Counsel will be appointed by separate Order to represent Defendant for that purpose. Further, pursuant to section 922.105, Florida Statutes (2020), Defendant has thirty (30) days from the issuance of a mandate from the Supreme Court of Florida affirming the sentence of death to elect death by electrocution, by the procedures required by that law.

Granville Ritchie, may God have mercy on your soul.

DONE AND ORDERED in Chambers, in Hillsborough County, Florida, this 11th day of Sept., 2020.

Michelle Sisco

MICHELLE SISCO, Circuit Judge

Copies furnished to:

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CERTIFICATE OF SERVICE

I do certify that a copy hereof has been furnished to the above-listed parties by United States mail or electronic service on _____, 2020.

_____,
Deputy Clerk