IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO.: 05-2012-CF-035337-AXXX-XX

STATE OF FLORIDA,

Plaintiff,

v.

BRANDON LEE BRADLEY,

Defendant.

_____/

FILED IN OPEN COURT
Date 6/27/2014 Time 1:52 PM
CLERK
CIRCUIT AND COUNTY COURT
By _____

JUDGMENT AND SENTENCE

The Defendant, Brandon Lee Bradley, born on August 23, 1989, is before the Court for sentencing.

Throughout this case, the Defendant was represented by able, competent, and experienced counsel. Attorneys Randall Moore, Mark Lanning, and Michael Pirolo represented the Defendant at the guilt and penalty phases. Assistant State Attorneys James McMaster and Thomas Brown represented the State of Florida. The attorneys for both the Defendant and the State of Florida involved in this case were very experienced, showed commendable professionalism and civility throughout this case, and represented the respective parties well.

The Defendant was charged by Indictment with: (1) the first degree premeditated murder of a law enforcement officer, Deputy Barbara Pill, with a firearm, (2) robbery, (3) fleeing or attempting to elude a law enforcement officer – siren and lights activated with high speed or reckless driving, and (4) resisting an officer with violence. On February 24, 2014, through April 1, 2014, a jury trial was held, and the jury convicted the Defendant on April 1, 2014.

On April 3, 2014, through April 8, 2014, the penalty phase was conducted. On April 8, 2014, the jury recommended death by ten to two.

On April 8, 2014, the Defendant waived a Pre-Sentence Investigation Report. A Spencer[1] hearing was held on June 5, 2014, at which the victim's father, brother, and husband made statements, and the defense presented no additional evidence or testimony. The Defendant chose not to make a statement regarding sentencing. The State and the defense submitted sentencing memorandums on June 18, 2014.

This Trial Court is now charged with the responsibility of applying a reasoned judgment as to the appropriate sentence, in light of the totality of the circumstances in this case. This Court recognizes that the imposition of death is to

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

be reserved for the most aggravated and least mitigated of first-degree murders.[2]

In this regard, the Court considered all evidence and testimony presented, the official Court file, argument of counsel and the applicable elements of aggravation and mitigation set forth in section 921.141(5) and (6), Florida Statutes (2012), as well as the non-statutory mitigating circumstances.[3] The Court also considered the sentencing memorandums submitted by both the State and defense, and legal authorities cited therein. The Court engaged in a comprehensive analysis to determine if the murder of Deputy Pill falls within the category of the most aggravated and the least mitigated of murders This analysis is not a quantitative comparison between the number of aggravating and mitigating circumstances, but rather a qualitative review of the underlying basis for each aggravator and mitigator.[4] Being fully advised in the premises, the Court makes the following findings of fact and conclusions of law:

I. FACTS

After staying at the Econo Lodge on U.S. 192 in Melbourne, Brevard County, Florida, the Defendant and his then girlfriend, Andria Michelle Kerchner were seen by another motel guest as they transported motel property (e.g., pillows,

[2] Yacob v State, 136 So 3d 539 (Fla 2014), Muehleman v State, 3 So 3d 1149, 1166 (Fla 2009)
[3] See Ford v State, 802 So 2d 1121 (Fla 2001), cert denied, 535 U S 1103 (2002)
[4] Wheeler v State, 4 So 3d 599, 612 (Fla 2009)

sheets, bedspreads, the cover of the motel room's air conditioning unit, an ice bucket, garbage can, wall art, and a nightstand) from their motel room to the Defendant's white Ford Explorer sports utility vehicle (SUV) in the motel's parking lot on the morning of March 6, 2012, around 10:30 to 10:45 A.M., approaching the motel's check-out time at 11:00 A.M. Motel housekeepers also noticed the motel's property in the parking lot next to the Defendant's vehicle and motel property that had been loaded in the back of the Defendant's SUV.

In the motel's parking lot, motel employees confronted the Defendant and Kerchner about taking the motel's property. Andrew Jordan, the motel's maintenance man, yelled several times to the Defendant who at this point was attempting to drive away, that he would call 9-1-1 if the Defendant did not exit his vehicle and return the motel's property. The Defendant did not comply. Jordan then positioned his body in the front of the vehicle in a failed attempt to stop the Defendant from leaving with the motel's property. The Defendant hit Jordan with the SUV as he drove away from the parking lot with the motel's property in his vehicle. Jordan was not injured, but Jordan feared being run over by the Defendant. Mohammad Malik, the motel's owner, who had witnessed these events as they were unfolding called police to report what had happened. Mr. Malik provided a detailed description to police of the tag number of the Defendant's white Ford Explorer SUV, the direction the vehicle headed on U.S 192 as it left

the motel's parking lot, and a description of the Defendant as a black male driver accompanied by a white female in the passenger seat.

Deputy Barbara Pill was driving on John Rhodes Boulevard on March 6, 2012, within one to two miles of the Econo Lodge, when she first spotted the Defendant's vehicle following the issuance of a police dispatch about a "theft from a motel" that had occurred minutes earlier at the Econo Lodge. Deputy Pill was driving southbound on John Rhodes Boulevard when she observed the Defendant pass her driving his SUV northbound on John Rhodes Boulevard. Deputy Pill turned her vehicle around and raced after the Defendant's vehicle finally catching up with it. Deputy Pill confirmed that the license tag on the SUV matched the one given by the dispatcher. She activated her overhead emergency lights

Deputy Pill's dash cam recorder in her police cruiser began recording at approximately 11:07:18 A.M. as she followed the Defendant's white SUV on John Rhodes Boulevard. The video of the dash cam recording was introduced into evidence at trial. The dash cam recording showed the Defendant's white SUV turning onto Elena Way, in a residential neighborhood. Deputy Pill initiated a traffic stop of the vehicle. Deputy Pill instructed the Defendant at least twenty times to exit his vehicle over the time span of several minutes, but the Defendant never complied, despite Deputy Pill explaining, "Get out of the car, so I can talk with you," asking, "Are you in the car by yourself?" and explaining that she would

talk with him when he "got out of the car" Deputy Pill's weapon was never drawn at any time during the traffic stop, and the video showed her acting in a polite professional manner with the Defendant and Kerchner. On the video, the Defendant can be heard through the partially-opened front door refusing to exit the vehicle.

When the Defendant did not comply with her repeated clear instructions to exit the vehicle to talk, Deputy Pill walked closer to the driver's side door. As the Defendant attempted to drive off by pulling his vehicle slowly forward for several feet, Deputy Pill approached the vehicle's driver's door and reached into the vehicle, apparently attempting to retrieve the keys to the vehicle to prevent the Defendant from driving off. The Defendant pulled out and pointed a semi-automatic firearm at Deputy Pill around 11:11 A.M. The Defendant fired eight shots at Deputy Pill through his driver's side door that was ajar and within a close distance of approximately two feet. The gunshots were also recorded on the police radio system and simultaneously broadcast to other law enforcement officers.

As he shot Deputy Pill, the Defendant continued driving forward, then performed a U-turn on the street, and drove off. The video clearly shows the Defendant as the shooter, and shows bullets fired by the Defendant hitting Deputy Pill's head and chest area. A nearby neighbor in the Elena Way neighborhood

witnessed the shooting, immediately called 9-1-1, and ran into the street to help Deputy Pill. The neighbor reported seeing a black male driver and white female passenger. Approximately forty-five seconds after the Defendant shot Deputy Pill, Officer Deputy James Troup arrived on the scene to discover Deputy Pill lying in the middle of the street dying. Deputy Pill's firearm was still in her holster and strapped in place.

Deputy Victor Velez was the second officer who arrived, and described Deputy Pill as lying on her back gasping. He testified that he could tell from the gunshot wound to her head that there was nothing that could be done to save her life. The autopsy of Deputy Pill performed by the medical examiner, Dr. Sajid Qaiser confirmed that Deputy Pill had been shot multiple times at a distance of less than two feet producing five gunshot wounds. Dr. Qaiser testified that the fatal wound was to Deputy Pill's head, with a lethal wound on her left upper arm.

After fleeing the Elena Way scene where he shot Deputy Pill, the Defendant attempted to elude law enforcement officers by driving his vehicle down side streets and on grass through yards in a residential neighborhood. Kerchner testified that the pair needed gasoline for the SUV, so they stopped at a residence with an open garage door, in the hopes of finding gasoline inside. The Defendant parked his vehicle in the driveway of the residence of Gerard Joseph Weber at 4075 Janewood Lane. Weber heard a police helicopter overhead, went to his

garage, and discovered Kerchner smoking a cigarette and hiding in the corner. Weber told Kerchner to take whatever she needed, and then he left his garage and notified police to follow the SUV. Law enforcement later discovered Kerchner's cell phone in Weber's garage.

After the Defendant left Janewood Lane, a police chase of the Defendant's vehicle thereafter ensued, with a police helicopter pursuing overhead the SUV and recording the SUV's movements. On land, police deployed stop sticks along the roadway in an attempt to stop the Defendant's vehicle, but the Defendant drove around them. Police cruisers activated their lights and sirens during the entire chase, but the Defendant never voluntarily stopped. Ultimately, the Defendant hit some stop sticks deployed by Officer Chad Cooper on Turtlemound Road. This caused the Defendant to lose control of his vehicle hitting a stop sign and guard rail. The vehicle rolled and landed on the passenger side down in a water-filled ditch.

The Defendant and Kerchner did not immediately exit the vehicle, but rather waited approximately twenty minutes, and only exited after police threw a brick paver through the back window of the SUV, shattering the glass. The Defendant and Kerchner were thereafter arrested at the Turtlemound scene.

Police retrieved a handgun from the Defendant's vehicle. FDLE tests confirmed that the bullets retrieved from Deputy Pill's body, off the ground at the

Elena Way location where Deputy Pill was shot, and from the inside of the Defendant's SUV matched said handgun.

The evidence of the Defendant's guilt of the charged offenses was overwhelming, and beyond a shadow of any doubt. Even without the Defendant's confession, there was no reasonable doubt as to the identification of the Defendant as the shooter and murderer of Deputy Barbara Pill, especially given the video recordings of the events as they unfolded. The dash camera video from Deputy Pill's police cruiser clearly shows the Defendant inside the SUV in the driver's seat firing at Deputy Pill as she collapses to the ground. (See State's Exhibit #42).

II. AGGRAVATING CIRCUMSTANCES

The State argued six statutory aggravators. The Court merged two of the aggravators into one to prevent improper doubling[5], as further detailed below. The Court finds that all five of the aggravators were proven beyond a reasonable doubt, and the Court gives each of them great weight, specifically:

[5] Wheeler v State, 4 So 3d 599, 603 (Fla 2009) (When the victim is a law enforcement officer engaged in official duties that statutory aggravator must be combined with the other statutory aggravator that the murder was committed for purpose of avoiding or preventing a lawful arrest in order to avoid improper doubling)

1. The Capital Felony was Committed by a Person Previously Convicted of a Felony and under Sentence of Imprisonment or Placed on Community Control or on Felony Probation

Section 921.141(5)(a), Florida Statutes (2012), provides that if the capital felony was committed by a person previously convicted of a felony and under sentence of imprisonment or placed on community control or on felony probation, then this qualifies as an aggravating factor for purposes of imposing the death penalty.

The State proved this aggravating circumstance beyond a reasonable doubt by documentation as well as the testimony of Florida Department of Corrections Probation Officer Charles Colon. On March 2, 2009, the Defendant was sentenced in Case Numbers 05-2008-CF-036782-AXXX-XX, 05-2008-CF-031707-AXXX-XX, and 05-2007-CF-061680-AXXX-XX, to a composite sentence of two years in prison, followed by four years on probation.[6] Officer Charles Colon testified that the Defendant was on probation on these three cases on March 6, 2012, and violation of probation warrants[7] had been issued for the Defendant beginning February 9, 2011, as the Defendant failed to report to probation as instructed.

[6] State's Exhibits 184, 185, and 186
[7] State's Exhibits 1, 2, 3, 4, and 5

The Court finds this aggravating circumstance has been proven beyond a reasonable doubt. The Court gives this aggravator great weight.

2. The Defendant was Previously Convicted of Another Capital Felony or of a Felony Involving the Use or Threat of Violence to the Person

Section 921.141(5)(b), Florida Statutes (2012), provides that an aggravating circumstance is that "[t]he defendant was previously convicted of another capital felony or a felony involving the use or threat of violence to the person." The Defendant was convicted in Case Number 05-2008-CF-036782-AXXX-XX with robbery that involved the use or threat of violence to Gary Dale Shrewsbury, Jr.

A certified copy of Case Number 05-2008-CF-036782-AXXX-XX was introduced into evidence as State's Exhibit 185. Gary Dale Shrewsbury, Jr., testified at the penalty phase that on June 11, 2008, he was at Taco Bell with a couple of friends, when the Defendant called him over to a truck on the ruse that there was stereo equipment for sale. Shrewsbury testified that the Defendant had a gun, and the other man with the Defendant grabbed him. Shrewsbury testified that the pair demanded money, and the Defendant hit him in the forehead with the gun. Shrewsbury testified that the Defendant demanded money again, but Shrewsbury adamantly refused to comply. Shrewsbury testified that the Defendant instructed, "Take this cracker out into the woods and kill this cracker." Shrewsbury was then forced into the truck at gunpoint, and transported, during which the Defendant

repeated that he was going to kill Shrewsbury. Given the circumstances, Shrewsbury had a change of mind about giving his money to the pair and threw his money in the truck. Shrewsbury testified that after he threw his money, the truck was pulled over and Shrewsbury was released.

Officer William Gleason testified that he was dispatched after the armed robbery was reported involving Gary Shrewsbury. Officer Gleason testified that Mr. Shrewbury identified the Defendant as the gunman, the suspects were located that same day, and the gun was found.

The Court finds the aggravator that the Defendant was previously convicted of a felony involving the use or threat of violence to a person was proven beyond a reasonable doubt by competent and substantial evidence. The Court gives this aggravator great weight.

3. The Capital Felony was Committed while the Defendant was Engaged, or was an Accomplice in the Commission of, or an Attempt to Commit, or Flight after Committing or Attempting to Commit any Robbery

Christopher Montesano, a motel guest at the Econo Lodge, witnessed the Defendant carrying motel property to the white Ford Explorer SUV on March 6, 2012. Other motel employees had also witnessed motel property being removed and placed in the Defendant's vehicle. Motel employees confronted the Defendant in the parking lot regarding taking the motel property. Around 11:00 A.M., motel

employees told the Defendant at the Econo Lodge that law enforcement was being called regarding the stolen motel property and 9-1-1 was actually called in the Defendant's presence while at the motel. Mohammand Malik, the motel's owner, reported to police that the Defendant was driving a white Ford Explorer and provided the SUV's tag number and the direction that the vehicle was headed. The Defendant's vehicle hit Andrew Jordan as the Defendant fled with the motel's property in his vehicle. Malik provided the tag number of the vehicle the Defendant was driving, and provided the direction that the vehicle was headed. Malik's 9-1-1 phone call was introduced into evidence as State's Exhibit #31. After the dispatch regarding the property being taken from the Econo Lodge, Deputy Pill conducted a traffic stop of the Defendant's vehicle within minutes and within three and one-half miles from the Econo Lodge. There was no definitive break in the chain of circumstances beginning with the robbery at the Econo Lodge and ending with killing of Deputy Pill.

Section 921.121(5)(d), Florida Statutes (2012), provides an aggravating circumstance is "[t]he capital felony was committed while the defendant was engaged, or was an accomplice, in the commission of, or an attempt to commit, or flight after committing or attempting to commit, any robbery." The Court finds that this aggravator was proven beyond a reasonable doubt by substantial and competent evidence. The Court gives this aggravator great weight.

4. The Capital Felony was Committed for the Purpose of Avoiding or Preventing a Lawful Arrest or Effecting an Escape from Custody and The Victim of the Capital Felony was a Law Enforcement Officer Engaged in the Performance of Her Official Duties

Section 921.141(5)(e), Florida Statutes (2012), provides that "[t]he capital felony was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody." Section 921.141(5)(j), Florida Statutes (2012), provides that "[t]he victim of the capital felony was a law enforcement officer engaged in the performance of her official duties." The Court merges these two aggravators and treats them as a single aggravator.[8]

It is undisputed that Deputy Barbara Pill was a law enforcement officer and was engaged in the performance of her official duties when the Defendant shot her on March 6, 2012. On March 6, 2012, the Defendant had warrants for his arrest for violation of probation. Motel employees told the Defendant at the Econo Lodge that law enforcement was being called regarding the stolen motel property, and 9-1-1 was actually called in the Defendant's presence while at the motel. The Defendant was aware that the police would be looking for his vehicle and, if found, would discover his outstanding violation of probation warrants. Kerchner testified that the Defendant stated that he was not waiting for the police to arrive.

[8] Jackson v State, 704 So 2d 500 (Fla 1997)

Kerchner testified that as the Defendant drove away from the Econo Lodge, the Defendant stated he did not want to go back to prison and would do whatever he had to do not to go back to prison, including shooting police.

The Court finds these aggravated, merged into one, were proven beyond a reasonable doubt by competent and substantial evidence The Court gives this consolidated aggravator great weight.

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

Section 921.141(5)(i), Florida Statutes (2012), provides that an aggravating factor is "[t]he capital felony was a homicide and was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification." A determination of whether the cold, calculated and premeditated (CCP) factor is present is based on a consideration of the totality of the circumstances.[9]

To establish this aggravator, the State must prove beyond a reasonable doubt that: (1) the killing was the product of cool and calm reflection and not an act prompted by emotional frenzy, panic, or a fit of rage (cold); (2) the defendant had a careful plan or prearranged design to commit murder before the fatal incident (calculated); (3) the defendant exhibited heightened premeditation

(premeditated); and (4) the murder was committed with no pretext of legal or moral justification.[10] The Supreme Court of Florida has explained that facts such as advance procurement of a gun, lack of resistance or provocation, and the appearance of a killing carried out as a matter of course can establish the CCP aggravator.[11]

The Defendant had the mental ability and presence of mind to obtain a gun and pre-plan what he would do if law enforcement attempted to arrest him. The Defendant obtained a firearm from Robert William Marks who had stolen it from his sister's husband, Jason Seaton. The Defendant obtained this firearm approximately four months prior to Deputy Pill's murder. The Defendant was aware that he had outstanding warrants for his arrest, and that he had not been reporting to probation as required. The Defendant was observed by his friends carrying a firearm, or similar weapons, on his person or nearby at all times. On a separate occasion, the Defendant told his friend Amanda Ozburn that he was not going back to jail. Found in his SUV, after he had shot Deputy Pill, there was a box of live ammunition with the Defendant's fingerprints on it.

The record does not show a person panicking in a frightening situation, but rather a man with a plan in place determined not to be imprisoned again. Kerchner

[9] Altersberger v State, 103 So 3d 122, 126 (Fla 2012)
[10] Brown v State, 126 So 3d 211, 217 (Fla 2013)

testified that as they drove away from the Econo Lodge, the Defendant said that he did not want to go back to prison and would do whatever he had to do not to go back to prison, including shooting police. Kerchner testified that the Defendant saw Deputy Pill's patrol vehicle. Kerchner testified that the Defendant informed her that Deputy Pill saw his tag, and if pulled over, he was not going back to prison, and he "would shoot the crackers."

Kerchner testified that the Defendant pulled over when Deputy Pill activated her lights. Kerchner testified that the Defendant stated he had to kill Deputy Pill because she had seen his face and tag. Kerchner testified that she pleaded with the Defendant that everything was not that serious. The Defendant stated he could be gone for five years to prison, to which Kerchner explained that "if you shoot an officer, it will be way longer than five years." Jeffrey Jamie Dieguez overheard the conversation between Kerchner and the Defendant on an open line on Kerchner's cell phone. Dieguez testified that he heard the Defendant stating "we're being pulled over," and demanding that Kerchner hand him the gun. Dieguez testified that he heard Kerchner in tears pleading with the Defendant, "No, baby, we don't need to do this." Dieguez testified that the Defendant insisted that "yes, he needed to do this" because "that bitch saw my tag" and "we need to kill that bitch." Dieguez testified that the Defendant continued to repeat that he

[11] Id

needed to kill Deputy Pill, and Kerchner continued to plead with the Defendant, and this exchange went on for some time. Deputy Pill's video dash cam shows the approximate three minutes that elapsed during which Kercher and the Defendant were in the vehicle, when this conversation took place. Kerchner testified that despite her pleading with the Defendant not to shoot Deputy Pill, the Defendant ultimately shot Deputy Pill multiple times within a two feet range, and then drove off.[12]

The Defendant carried out the killing of Deputy Pill as a matter of course, in an effort to prevent his incarceration The Defendant had ample time to reflect on the proposed killing of Deputy Pill and to abandon the plan At least over the course of approximately three minutes, Kerchner begged the Defendant not to kill Deputy Pill and approximately three minutes elapsed in which the Defendant could have aborted his plan, but the Defendant adamantly chose not to, despite Kerchner reasoning with him and pointing out the dire consequences of killing a law enforcement officer. The Defendant could have simply complied with Deputy Pill during the course of this traffic stop, but instead he chose to carry out his prearranged decision to shoot a law enforcement office instead of facing

[12] Altersberger v State, 103 So 3d 122 (Fla 2012) ("Cold" element of CCP aggravator established when defendant twice calmly announced his intent to shoot a police officer if pulled over, and despite having the opportunity to calmly reflect on his decision, defendant devised and carried out a plan to catch officer off guard and then kill him)

incarceration The Defendant had a substantial period of reflection and thought prior to shooting Deputy Pill. Furthermore, the Defendant made absolutely no attempt to escape without using deadly force, such as shooting Deputy Pill in the foot, but rather he chose instead to shoot at Deputy Pill multiple times from a close range of within two feet, thus ensuring that she would be dead.[13] The Defendant shot Deputy Pill in the head, and continued to shoot when Deputy Pill's back was facing him. There was no provocation for the Defendant to shoot Deputy Pill. Deputy Pill never drew her weapon and never took it out of her holster. The Defendant shot Deputy Pill in the head -- an action that amounted to an execution-type murder simply because the Defendant did not want to be incarcerated again.[14] The Defendant's actions were cold and calculated [15] Heightened premeditation has been established. There is no moral or legal justification for the shooting of this law enforcement officer.

[13] Altersberger v State, 103 So 3d 122 (Fla 2012) (Heightened premeditation found where defendant had the opportunity to leave the crime scene and not commit the murder but instead committed the murder)

[14] Jackson v State, 704 So 2d 500 (Fla. 1997) (upholding cold, calculated and premeditated aggravator as applied to a defendant who, as she was being arrested and placed into a police car, deliberately dropped her keys so as to force her arresting officer to bend over to retrieve them and thereby give her the opportunity to pull her gun and carry out an execution-type murder by fatally shooting the officer in the head)

[15] Altersberger v State, 103 So 3d 122 (Fla 2012) (CCP aggravator upheld where evidence existed that the defendant twice calmly announced his intent to shoot a police officer were he to be pulled over, and after he had already shot officer, continued to shoot officer in the head), Valle v State, 581 So 2d 40 (Fla), cert denied, 502 U S. 986 (1991) (Cold, calculated, and premeditated aggravator valid, where after a traffic stop, Valle told fellow occupant that he

The Court finds that the CCP aggravator has been established beyond a reasonable doubt, and the Court assigns it great weight.

III. MITIGATING CIRCUMSTANCES

A trial court must expressly evaluate all statutory and nonstatutory mitigators a defendant has proposed Ault v. State, 53 So 3d 175, 186 (Fla. 2010), cert. denied, --- U.S. ----, 132 S. Ct. 224, 181 L.Ed. 2d 124 (2011). If the defendant has established the mitigator through competent, substantial evidence, the Court must find the mitigating circumstance. Allen v. State, 38 Fla. L. Weekly S592 (Fla. July 11, 2013). In Ford v. State, 802 So. 2d 1121, 1134-35 (Fla. 2001), the Court described the procedure that a trial court should follow in considering mitigating circumstances:

> When a court is confronted with a factor that is proposed as a mitigating circumstance, the court must first determine whether the factor is mitigating in nature. A factor is mitigating in nature if it falls within a statutory category or otherwise meets the definition of a mitigating circumstance. The court next must determine whether the factor is mitigating under the facts in the case at hand. If a proposed factor falls within a statutory category, it necessarily is mitigating in any case in which it is present. If a factor does not fall within a statutory category but nevertheless meets the definition of mitigating circumstance, it must be shown to be mitigating in each case, not merely present. If a proposed factor is mitigating under the facts in the case at hand, it must

would have to "waste the officer" because Valle had heard the officer conducted a license plate check, and Valle concealed his firearm, and shot officer in the neck at a distance of 1 ½ to 3 feet)

> be accorded some weight; the amount of weight is within the trial court's discretion.

A trial court may reject a mitigator if the defendant fails to prove the mitigating circumstance, or if the record contains competent, substantial evidence supporting that rejection. Allen v. State, 38 Fla. L. Weekly S592 (Fla. July 11, 2013) (citing Ault v. State, 53 So. 3d 175, 186 (Fla. 2010)). A mitigator may also be rejected if the testimony supporting it is not substantiated by the actions of the defendant, or if the testimony supporting it conflicts with other evidence. Id. This Court has considered and weighed any and all mitigation presented during the course of the guilt phase and penalty phase. The Defendant presented no additional witnesses or evidence at the Spencer hearing.

A. STATUTORY MITIGATING CIRCUMSTANCES

There are three possible statutory mitigating circumstances argued in this case. The Court will address each one in detail separately.

1. The Capital Felony was Committed while the Defendant was under the Influence of Extreme Mental or Emotional Disturbance

Pursuant to section 921 141(6)(b), Florida Statutes (2012), a statutory mitigating circumstance exists when "[t]he capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance." Impairment due to substance abuse or alcohol addiction at the time of the offense cannot be used to support this mitigating circumstance because the Florida

Legislature has eliminated this as a mitigating factor at sentencing. § 921.0016(5), Fla. Stat. (2012).

Dr. Susan Skolly-Danziger testified that the Defendant has an impairment in the orbital frontal lobe of his brain, that has to do with impulse control, attention deficit hyperactivity disorder, and poor decision making. Dr. Jacquelyn Olander, a licensed psychologist and specialist in neuropsychology, testified that the data supported the presence of a head injury. Dr. Olander testified that the frontal lobe is an operating processor and incorporates a higher level of thinking and reasoning. Dr. Olander explained that if the frontal lobe is injured, it can inhibit emotions and affect a person's ability for self-control. Dr. Joseph Wu, a neuropsychiatrist and brain imaging specialist, examined PET and MRI scans of the Defendant's brain taken on October 15, 2013, and December 23, 2013 respectively, and testified that the Defendant has an abnormal decrease of twenty-five percent in the area of his brain involving impulse control, and abnormal increase in the areas of the brain controlling anxiety. Prior to October 13, 2013, and December 23, 2013, there were no previous PET or MRI scans done on the Defendant's brain. Dr. Wu testified that the abuse of substances such as cocaine and Xanax makes this area of the brain that is already badly functioning worse, and can make a person more likely to act out in an impulsive manner.

Dr. Wu testified that the most likely source of the Defendant's brain abnormalities was traumatic head injury. While the Court finds that the Defendant did prove by competent and substantial evidence that the Defendant currently suffers from a brain abnormality, the Court finds that it is impossible to determine whether this brain abnormality existed at the time of the murder of Deputy Pill. There was testimony that the Defendant fell off the monkey bars as a child, was in a motor vehicle accident in 2007, and was involved in an incident in prison in 2009, that possibly could have caused head trauma; however, there was no documentation of brain damage or brain injury as a result of these incidents. The brain damage to Defendant's frontal lobe may have been sustained in the crash that ensued after he killed Deputy Pill.

The Court finds the Defendant's actions before, during, and immediately after this murder indicate the Defendant's awareness of the criminality of his conduct. The Defendant planned well in advance of March 6, 2012, not to go back to prison, including obtaining a firearm and acquiring plenty of ammunition. After he shot Deputy Pill, the Defendant continued his plan not to be incarcerated by evading law enforcement and seeking gasoline for his vehicle. None of these actions suggested that the Defendant was either unaware that his actions were criminal or that he was unable to conform his conduct to the requirement of the law. To the contrary, the evidence establishes that the Defendant knew exactly

that he had committed a horrendous crime, and was carrying out his overall plan not to be incarcerated again.

In order for the section 921.141(6)(b) mitigating circumstance to apply, the extreme mental or emotional disturbance must exist at the time of the murder. The Defendant did not prove by competent and substantial evidence that the brain injury existed at the time of Deputy Pill's murder. Furthermore, the Court finds that if the brain damage existed at the time the Defendant shot Deputy Pill, the brain damage did not affect Defendant's actions and thus, the Court rejects this mitigator.[16]

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

2. 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

Pursuant to section 921.141(6)(f), Florida Statutes (2012), a statutory mitigating circumstance exists when "[t]he capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law was substantially impaired " Dr. Olander testified that the Defendant's ability to conform his conduct to the law was substantially impaired due to the

[16] See Ault v State, 53 So 3d 175, 189 (Fla 2010) (Competent, substantial evidence supported trial court's rejection at capital sentencing proceeding of capital felony "committed while the defendant was under the influence of an extreme mental or emotional disturbance" where defendant's actions in terms of planning and executing the murders suggested defendant's

Defendant's paranoia, belief system, and brain damage. Dr. Patricia Zapf testified that while the Defendant may have certain limitations, it did not meaningfully affect his ability to obey the law.

The Court finds that this mitigator was not proven by competent and substantial evidence. *Assuming arguendo* that this mitigator had been proven, the Court would assign it some weight, but still reaches the same overall sentencing recommendation.

3. The Age of the Defendant at the Time of the Crime

Pursuant to section 921.141(6)(g), Florida Statutes (2012), the age of a defendant at the time of the crime is a statutory mitigating circumstance. The Defendant was born on August 23, 1989. On March 6, 2012, the date that the Defendant murdered Deputy Pill, the Defendant was twenty-two years old. At the time of Deputy Pill's murder, the Defendant had prior experience in the criminal justice system as an adult, including having being placed on probation. The Court finds that this mitigator was proven, but this Court ascribes it no weight

capacity to appreciate criminality of his conduct or to conform his conduct to the requirements of the law and where defendant stated he committed murder to avoid being sent back to prison)

4. The Existence of Any Other Factors in the Defendant's Background that would Mitigate against Imposition of the Death Penalty

Pursuant to section 921 141(6)(h), Florida Statutes (2012), "[t]he existence of any other factors in the defendant's background that would mitigate against imposition of the death penalty" is a statutory mitigating circumstance.

(a) The Defendant was Severely Physically Abused as a Child

Keith Nelson and Anthony Nelson, the Defendant's siblings, testified to severe physical child abuse suffered by the Defendant at the hands of his stepfather, beginning at age eight. The Court finds this mitigating circumstance was proven, and assigns it some weight.

(b) The Defendant was Verbally and Emotionally Abused as a Child

The Defendant's brothers also testified that their physically abusive stepfather would emotionally abuse the Defendant and his brothers making such statements as "You ain't none of mine," "I could care less about you," and "I really want you out of the house." The Court finds that this mitigating circumstance was proven, and assigns it some weight.

(c) The Defendant's Mother Chose His Stepfather Over Her Own Children and Failed to Protect Him from Their Stepfather's Abusive Treatment

According to the testimony presented by Keith Nelson and Anthony Nelson, the Defendant's mother did nothing to protect the Defendant and his brothers from

the physical abuse inflicted by the stepfather. The Court finds that this mitigating circumstance was proven, and assigns it some weight.

(d) The Defendant Witnessed the Physical, Verbal, and Emotional Abuse of His Mother by His Stepfather

The Court finds from the testimony presented by Keith Nelson and Anthony Nelson that the Defendant witnessed the physical, verbal, and emotional abuse of his mother by his stepfather. The Court finds this mitigating circumstance proven. The Court assigns this mitigator some weight.

(e) The Defendant Witnessed the Physical, Verbal, and Emotional Abuse of His Siblings by His Stepfather

The Court finds from the testimony presented by Keith Nelson and Anthony Nelson that the Defendant witnessed the physical, verbal, and emotional abuse of his brothers by his stepfather. The Court finds this mitigating circumstance proven. The Court assigns this some weight.

(f) As a Child, The Defendant had no Loving Father Figure or Male Role Model

The Defendant had no loving father figure or male role model as a child. The Court finds that this mitigating circumstance was proven, and assigns it some weight.

(g) The Defendant has a Close, Loving Relationship with His Brother, Anthony Nelson

Both of the Defendant's brothers, Keith Nelson and Anthony Nelson testified regarding the close, loving relationship, each has with the Defendant. The Court finds that this mitigating circumstance was proven, and assigns it little weight.

(h) The Defendant is Known by His Family and Friends to be Generous and has Contributed Financially to the Support of His Mother and Friends

Carrie Ann Marie Ellison, the Defendant's former girlfriend, testified that without hesitation the Defendant would financially help his mother, family, and friends in need. Ms Ellison stated that if the Defendant "cared about you, he'd do whatever." The Court finds that this mitigating circumstance was proven, and assigns it little weight.

(i) The Defendant was Addicted to and Abused Drugs from an Early Age

The Defendant began voluntarily abusing drugs at a very early age, and became addicted. The Court finds that this mitigating circumstance was proven, and assigns it little weight.

(j) The Defendant Suffers from Brain Damage and Brain Functional Deficits

The Defendant currently has damage to his frontal lobe and brain functional deficits. Any brain damage to Defendant's frontal lobe and brain functional deficits in existence at the time of the shooting of Deputy Pill did not impair Defendant's ability to formulate a plan to keep himself from being arrested for the theft at the Econo Lodge, discuss this plan with Kerchner, and to carry out the plan after time for reflection. The Defendant did not prove by competent and substantial evidence that the brain injury existed at the time of Deputy Pill's murder. Furthermore, the Court finds that if the brain damage existed at the time the Defendant shot Deputy Pill, the brain damage did not affect Defendant's actions.

The Court finds that the defense proved that the Defendant currently suffers from a brain injury and brain functional deficits, but the Court assigns this mitigator no weight

(k) The Defendant Suffered Head Injury and Possible Traumatic Brain Injury

As aforementioned, Dr. Wu testified that the most likely source of the Defendant's brain abnormalities was traumatic head injury. While the Court finds that the Defendant did prove by competent and substantial evidence that the Defendant currently suffers from a brain abnormality, the Court finds that it is

impossible to determine whether this brain abnormality existed at the time of the murder of Deputy Pill. There was testimony that the Defendant fell off the monkey bars as a child, was in a motor vehicle accident in 2007, and was involved in an incident in prison in 2009, that possibly could have caused head trauma; however, there is no documentation of brain damage or brain injury with these incidents. The brain damage to Defendant's frontal lobe may have been sustained in the crash that ensued after he killed Deputy Pill.

The Court finds that while the Defendant currently has a head and brain injury, the Defendant did not prove by competent and substantial evidence that the head injury and possible traumatic brain injury existed at the time of Deputy Pill's murder. Furthermore, the Court finds that if the head injury and traumatic brain injury existed at the time the Defendant shot Deputy Pill, this did not affect Defendant's actions. The Court finds that the defense failed to prove that the Defendant suffered head injury and possible traumatic brain injury prior to March 6, 2012, which affected his actions of shooting Deputy Pill. The Defendant was aware of the criminality of his conduct, and could have conformed his conduct to the law if he had chosen to do so.

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

(l) The Defendant's Cousin, Travanti Williams, was Shot to Death in October 2011, which had a Devastating Emotional and Psychological Impact on the Defendant

Carrie Ann Marie Ellison and Anthony Nelson testified that the Defendant's cousin was shot to death, which had a devastating emotional and psychological impact on the Defendant. The Court finds that this mitigating circumstance was proven, and the Court assigns it little weight.

(m) The Defendant had a Relationship with Carrie Ellison during which She Became Pregnant with his Child. She Miscarried, a Few Days after the Death of Travanti Williams. Thereafter, the Defendant Began a Period of Significantly Greater Drug Abuse

The Court finds that the Defendant had a relationship with Carrie Ellison during which she became pregnant with the Defendant's child and then miscarried that child a few days after the death of the Defendant's cousin, Travanti Williams. The Court finds that thereafter the Defendant made a voluntary decision to begin a period of significantly greater illegal drug abuse. The Court finds that this mitigating circumstance was proven, and the Court assigns it little weight.

(n) Following the Loss of His Cousin and His Girlfriend's Miscarriage, the Defendant Appeared to be Distrustful of the Motives of Others, Paranoid, Believed that a "Hit" was Placed on His Life, and Obtained a Gun to Protect Himself

The Court finds that following the death of his cousin and Carrie Ann Marie Ellison's miscarriage of the Defendant's child, the Defendant appeared to be distrustful of the motives of others, paranoid, believed that a "hit" was placed on

his life, and obtained a gun to protect himself. The Court finds that this mitigating circumstance was proven, and the Court assigns it little weight.

(o) Several of the Defendant's Friends and Relatives were Murdered, or Died, which Appeared to Emotionally Affect the Defendant

The Court finds that the defense proved that several of the Defendant's friends and relatives died or were murdered, which appeared to emotionally affect the Defendant. The Court finds that this mitigating circumstance was proven, and the Court assigns this mitigator little weight.

(p) The Defendant has been Diagnosed with, and is being Treated for Mental Disorders with Psychotropic Medications

The Court finds that the Defendant has been diagnosed with and is being treated for mental disorders with psychotropic medications. The Court finds that this mitigating circumstance was proven, and the Court assigns it little weight.

(q) The Defendant has been Diagnosed with Polysubstance Dependence (which is Currently in Remission in a Controlled Environment) and Passive/Dependent Personality Traits

The Court finds that the Defendant has been diagnosed with polysubstance dependence (currently in remission in the prison environment) and passive and dependent personality traits. The Court finds that this mitigating circumstance was proven, and the Court assigns it little weight.

(r) The Defendant has a Full-Scale IQ of 70, as Assessed in 2013 by the WAISC IV

While the Defendant tested to a full-scale IQ of 70, as assessed in 2013 by the WAISC IV, competent substantial evidence showed during the guilt and penalty phases of this case that the Defendant was not mentally retarded or mentally disabled, and did not suffer from any deficient in adaptive functioning. The Defendant not only financially supported himself, but also helped his family and his friends. The Defendant earned a high school diploma.[17] The Defendant engaged in long-term goal-directed behavior and plans. The Defendant's foresight and acts of self-preservation indicate that he has the ability to adapt to his surroundings. He planned and prepared for months for any encounter with law enforcement by taking steps to illegally obtain a firearm and keep ammunition within his arm's reach. The Defendant discussed that he was not returning to prison. No deficits were established regarding his ability to take care of himself or his friends. The evidence did not show a manifestation of low IQ or adaptive deficits before age eighteen. The Court finds that the defense established the Defendant tested to a full-scale IQ of 70, as assessed in 2013 by the WAISC IV,

[17] Dufour v State, 69 So 3d 235, 249 (Fla 2011) (Defendant failed to establish deficient adaptive functioning where defendant's claimed inability to live independently in society was refuted by among other things, successfully mastering an intensive examination for obtaining a GED diploma)

but this was not proven to be mitigating under the facts in the case at hand, thus, the Court assigns it no weight.

(s) The Defendant was Cooperative with Law Enforcement and Confessed to All of the Offenses of which He has Been Convicted

The Defendant was not forthcoming to law enforcement regarding all of the details involving the murder of Deputy Pill. The Court finds that the Defendant did confess to the offenses for which he has been convicted. The Court finds that this mitigating circumstance has been proven. The Court assigns this mitigator little weight.

B. NON-STATUTORY MITIGATING CIRCUMSTANCES

1. Appropriate courtroom behavior

The Court finds that the Defendant exhibited appropriate courtroom behavior throughout these proceedings. The Court finds this mitigating circumstance was proven. The Court assigns minimal weight to this mitigator.

2. Other Factors

In the sentencing memorandum submitted by the defense on June 18, 2014, the Defendant proposed for the Court to consider in sentencing the Defendant that life without parole means a life sentence, that society is protected by a life sentence, that the Defendant is punished by a true life sentence, and the 10-2, non-

unanimous jury recommendation of death. The Court has considered each of these factors in making this recommendation.

IV. CONCLUSION

The Court finds that the State of Florida has established beyond and to the exclusion of every reasonable doubt the existence of five statutory aggravating factors: (1) the capital felony was committed by a person previously convicted of a felony and under sentence of imprisonment or placed on felony probation; (2) the defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person; (3) the capital felony was committed while the defendant was engaged, or was an accomplice, in the commission of, or attempt to commit, or flight after committing or attempting to commit robbery; (4) the capital felony was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody; and the victim of the capital felony was a law enforcement officer engaged in the performance of her official duties; and (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 Court considered the mitigators as detailed above in this Order. The death penalty is "reserved only for those cases where the most aggravating and

least mitigating circumstances exist."[18] All of the mitigators combined are insufficient in weight to counter balance the five aggravating factors which have each been proven beyond a reasonable doubt and for which this Court assigns each great weight. The Court further finds that each aggravator standing alone outweighs all of the mitigating circumstances combined. The Court carefully considered that the jury recommended death by advisory verdict of ten to two, and the Court gives this great weight.

This case involved a completely senseless murder of a law enforcement officer who was simply fulfilling her duties as a public servant by initiating a traffic stop to investigate the Econo Lodge robbery reported by motel owner, Mohammad Malik. Deputy Pill acted professionally with the Defendant during the traffic stop, and provided him countless opportunities to exit the vehicle over the course of three minutes. Never once did Deputy Pill take her firearm out of its holster, draw her firearm, or threaten the Defendant. The bottom line is that the Defendant murdered Deputy Pill in a selfish, foolish, and futile attempt to avoid returning to prison for violating his probation. The Defendant planned well in advance of the shooting of Deputy Pill that he would do what it took to avoid incarceration, even if this entailed using a gun to shoot an officer. Despite ample time for reflection to abandon his plan to avoid arrest, and even being urged by his

[18] Terry v State, 668 So 2d 954, 965 (Fla 1996)

then girlfriend and trusted friend, Andria Michelle Kerchner, not to shoot Deputy Pill, the Defendant did so regardless. The Defendant chose not to just shoot Deputy Pill one time, but he fired off seven more shots. The Defendant's brazen, premeditated, callous, and cowardly action of shooting Deputy Pill multiple times on a public street in a neighborhood of congested single family homes mandates nothing less than a death sentence.[19]

[19] See Bailey v State, 998 So 2d 545 (Fla 2008) (affirming death sentence as applied to a defendant who fatally shot a police officer during a traffic stop after having time to contemplate the killing before the shooting occurred, and where trial court determined that two weighty aggravators (avoid arrest and felony probation) outweighed the statutory age mitigator (very little weight) and eight nonstatutory mitigators including low IQ, history of mental illness, intoxication, and coming from a broken home (little weight as to each)), Altersberger v State, 103 So 3d 122 (Fla 2012) (Affirming death sentence for premeditated killing of a Florida Highway patrolman where two aggravators established (CCP and victim was a law enforcement officer engaged in the lawful performance of his official duties) were established and eleven mitigators were shown, including the defendant's capacity to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law was substantially impaired (moderate weight), the defendant was under the influence of alcohol at the time of the offense (little weight), the defendant had a long-term history of substance abuse from age 15 (very slight weight), the defendant was brought up in a dysfunctional family and home environment (moderate weight), defendant loves and values his family (very slight weight), defendant was devastated by his grandfather's death (very slight weight)), Reaves v State, 639 So 2d 1 (Fla 1994) (Death sentence proportionate for defendant who shot officer after a warrants check on defendant where two strong aggravators existed (defendant had prior violent felonies and murder was committed to avoid a lawful arrest) and there was relatively weak mitigation), Burns v State, 699 So 2d 646 (Fla 1997) (Death sentence proportionally applied for murder of law enforcement officer who defendant shot and killed officer after officer stopped defendant's vehicle and found cocaine, where there was single merged aggravator, based on murder having been committed to avoid arrest and hinder law enforcement (great weight) outweighed the statutory age and lack of criminal history mitigators and three categories of nonstatutory mitigators), Wheeler v State, 4 So 3d 599 (Fla 2009) (Death sentence proportionate for defendant who fatally shot law enforcement officer where CCP (great weight), avoid arrest (great weight), and prior violent felony (some weight) aggravators were established and statutory mitigation showed that murder committed under extreme mental and emotional disturbance (some weight), capacity to conform conduct to law was substantially impaired (some weight), and eleven nonstatutory mitigators existed, including life-long paralysis)

V. SENTENCE[20]

BRANDON LEE BRADLEY, having been given the opportunity to be heard and show legal cause why judgment and sentence should not now be imposed and to offer matters in mitigation, and no legal cause having been shown to preclude imposition of sentence, you are hereby

ADJUDGED guilty of the crime of First Degree Murder for the unlawful killing of Deputy Barbara Pill, perpetrated by you from a premeditated design or intent to effect the death of Deputy Barbara Pill. It is therefore

ORDERED:

1. That the sentence of this Court is that you shall be **PUT TO DEATH** in the manner and means provided by law. MAY GOD HAVE MERCY ON YOUR SOUL.

2 You are hereby adjudged guilty of Count Three – Robbery, a second degree felony punishable by up to fifteen years imprisonment. As a result of this crime, you are committed to the Florida Department of Corrections to be confined for fifteen years This sentence shall be served consecutively to the sentence imposed on Count One.

3 You are hereby adjudged guilty of Count Five – Fleeing or Attempting to Elude – High Speed or Wanton Disregard, a second degree felony punishable by up to fifteen years imprisonment As a result of this crime, you are committed to

[20] At trial the charges in the Indictment were renumbered as Counts One through Four for the jury

the Florida Department of Corrections to be confined for fifteen years. This sentence shall be served consecutively to the sentence imposed on Count Three.

4. You are hereby adjudged guilty of Count Six – Resisting an Officer with Violence, a third degree felony punishable by up to five years imprisonment. As a result of this crime, you are committed to the Florida Department of Corrections to be confined for five years. This sentence shall be served consecutively to the sentence imposed on Count Five.

5 The composite terms of all sentences imposed for the counts specified in this Order shall run concurrently with any active sentence being served.

6 YOU HAVE AN AUTOMATIC APPEAL TO THE SUPREME COURT OF FLORIDA FROM THIS JUDGMENT OF GUILT AND SENTENCE THIS COURT HAS IMPOSED. You are entitled to the assistance of an attorney in preparing and filing your appeal Upon showing that you are entitled to an attorney at the expense of the State one will be appointed for you

DIRECTIONS TO THE CLERK OF THE COURT, SHERIFF, AND COURT REPORTER

7 The Clerk of the Court shall file and record this judgment and sentence and shall prepare seven certified copies of this record of conviction and sentence of death and the Sheriff of Brevard County shall send one certified copy of this record to the Governor of the State of Florida, and a second certified copy to the

Clerk of the Florida Supreme Court. § 922.052(1), Fla. Stat. (2013) The Defendant is hereby remanded to the custody of the Sheriff of Brevard County, Florida, who is directed to deliver the Defendant and the third certified copy of this conviction and sentence to the custody of the Department of Corrections to await issuance by the Governor of a warrant commanding the execution of this sentence of death. § 922.111, Fla. Stat.

8. The Clerk of the Court shall forthwith furnish the fourth certified copy of this judgment to the court reporter, who is directed as expeditiously as possible to transcribe the notes of all proceedings in this case and to certify the corrections of the notes and of the transcript, duly certified, and to file two copies of such with the Clerk of this Court.

9. The Clerk of this Court shall forthwith furnish the fifth certified copy of this judgment to the Defendant's counsel on appeal (the Office of the Public Defender) and the sixth certified copy of this judgment to the Attorney General of the State of Florida, and the seventh certified copy to the Defendant.

10. This judgment of conviction and sentence of death being subject to automatic review pursuant to section 921.141(4), Florida Statutes, the Clerk of Court is hereby directed to prepare a complete record on appeal of all parts of the original record, papers and exhibits, proceedings and evidence and two copies thereof, and after certification by the sentencing court, the Clerk shall transmit the

entire original certified record to the Clerk of the Supreme Court of Florida for automatic review and serve one copy thereof upon the Attorney General of the State of Florida, one copy to the Defendant, and one copy thereof upon the Office of the Public Defender for appeal.

11. The Defendant having been adjudged insolvent for purposes of appeal, the State of Florida shall pay the costs of such transcripts and copies and the filing fee on appeal, out of the Office of the Public Defender's budget.

DONE AND ORDERED at the Moore Justice Center, Viera, Brevard County, Florida, this 27th day of June, 2014

Morgan Laur Reinman

MORGAN LAUR REINMAN
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I do certify that copies hereof have been furnished to **James D. McMaster, Esq., and Thomas Brown, Esq., Assistant State Attorneys, Office of the State Attorney**, 2725 Judge Fran Jamieson Way, Building D, Viera, Florida 32940, BrevFelony@sa18.state.fl.us and **Randall Moore, Esq., Michael Mario Pirolo, Esq., Mark Lanning, Esq.,** Assistant Public Defenders, Attorneys for Defendant, 2725 Judge Fran Jamieson Way, Building E, Viera, Florida 32940, BREVARDFELONY@PD18.NET by hand delivery in open court this 27TH day of JUNE, 2014.

SCOTT ELLIS
CLERK OF COURT

By:

R. Murray
Deputy Clerk