NO. 18-5181

IN THE SUPREME COURT OF THE UNITED STATES

MICHAEL REYNOLDS,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE FLORIDA SUPREME COURT

APPENDIX TO RESPONDENT'S
BRIEF IN OPPOSITION

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

CASE NO. 98-3341-CFA

STATE OF FLORIDA,

Plaintiff

vs.

MICHAEL GORDON REYNOLDS,

Defendant

_____/

Count I. Second Degree Murder
(Danny Ray Privett)
F.S. 782.04(2)
(L.I.O.) F-1-PBL

Count II. First Degree Murder
(Robin Razor)
F.S. 782.04(1)
F-Capital

Count III. First Degree Murder
(Christina Razor)
F.S. 782.04(1)
F-Capital

Count IV. Burglary of a Dwelling
with a Battery with a
Weapon (Reclassified)
F.S. 810.02(1)(a), (2) (a);
775.087(1)
F-Life

AMENDED SENTENCING ORDER

On May 7, 2003, in Sanford, Seminole County, Florida, the Defendant, Michael Gordon Reynolds, was found guilty by a jury of twelve Seminole County citizens of Count I: Second Degree Murder of Danny Ray Privett, F.S. 782.04(2) [a lesser included offense] F-1-PBL; Count II: First Degree Murder of Robin Razor, F.S. 782.04(1) [F-Capital]; Count III: First Degree Murder of Christina Razor, F.S. 782.04(1) [F-Capital]; and Count IV: Burglary of a Dwelling With a Battery With a Weapon (Reclassified) F.S. 810.02(1)(a), (2)(a); 775.087(1) [F-Life].

Pursuant to F.S. 921.141(1)(2), a penalty phase proceeding was held on May 8th and 9th, 2003 to allow the trial jury to receive appropriate evidence, argument and instructions of law so as to allow them to determine what sentence they should recommend to the Court to impose on Count II and Count III. At the penalty phase, the Defendant waived the presentation of any additional evidence, to the jury, which would demonstrate the existence of either statutory or non-statutory mitigating circumstances. Outside the presence of the jury, the Defendant was advised of his right to present additional evidence if he chose to do so, but waived that right after having the opportunity to confer with counsel at length. Defense counsel, within limits set by the Defendant, argued to the jury prior to its deliberation to consider mitigating factors in rendering its advisory sentence. The jury recommended by a vote of 12-0 on Count II and Count III that the Defendant be put to death. At the Spencer hearing held before the Court on June 6, 2003, the defense filed documentary statements on behalf of the Defendant and the Court allowed the Defendant to make an extensive, unrestricted statement as to his position concerning the case.

On Wednesday, July 22, 1998, the Seminole County Sheriff's Office began investigating the murders of Danny Ray Privett, Robin Razor and their daughter, Christina Razor. The body of Danny Ray Privett was found on the property located at 1628 Clekk Circle, Geneva, Seminole County, Florida. Mr. Privett's body was found outside near a large palm tree. Two trailers were located on the property, one being a gooseneck prowler camping trailer and the other being a mobile home. The bodies of Robin Razor and Christina Razor were found inside their residence, the gooseneck prowler camping trailer. The cause of death for Danny Ray Privett was primarily due to

blunt force trauma to the head as a result of multiple blows. The primary cause of death to Robin Razor was due to multiple incised wounds to the neck and one stab wound to the torso. It was also established at trial that Robin Razor was beaten with a piece of concrete block and also suffered defensive wounds as a result of struggling with her killer. Christina Razor died as a result of an incised wound to the neck and stab wound in the right shoulder area which severed major blood vessels.

The Defendant, Michael Gordon Reynolds, lived in a camping trailer located at 1641 Clekk Circle, Geneva, Seminole County, Florida. This location is a short distance from where the victims resided. The victims, Danny Ray Privett and Robin Razor and the Defendant knew each other. On Thursday evening, July 23, 1998, investigators with the Seminole County Sheriff's Department interviewed the Defendant at his residence to determine if he had any information concerning the homicides. Subsequent to their initial interview with the Defendant at his camper trailer, the Defendant agreed to a taped interview with the investigators at the Seminole County Sheriff's Office. On videotape, Mr. Reynolds advised that at approximately 5:00 A.M. on July 22, 1998, his puppy was making noise. He went to let the dog out and slipped on the exterior step of his camper twisting his left ankle. During the course of the Defendant's mis-step, he placed his right hand on the aluminum doorframe in an attempt to break the fall and by so doing suffered a laceration to the little finger between the first and second joint. The Defendant advised the investigators that after the fall on the camper steps, he went back into the camper, cleaned up and drove to the Columbia Medical Center in Sanford, Florida for purpose of treating his injuries. The Defendant stated that while traveling westbound on S.R. 46 in Sanford, Florida, the right front tire of his vehicle went flat. The Defendant attempted to

change the tire but was unable to do so due to the tire jack malfunctioning. The Defendant, Michael Gordon Reynolds, then drove his vehicle to the Little Champ Food Store where the clerk allowed him to use her jack. The Defendant changed the tire and then proceeded to the hospital, arriving there sometime around 7:30 A.M. on July 22, 1998. After being treated by the hospital staff, he was advised to schedule an appointment with an orthopedic surgeon concerning the laceration to the little finger. At that time, the Defendant returned home sometime after 1:00 P.M. The Defendant advised the investigators that when he returned home that he worked on the door frame that had caused the injury to his finger. The Defendant stated that he had used a pair of channel locks and a hammer to remove the affected area from the door frame.

The Defendant also advised the Seminole County Sheriff's Office on Thursday, July 23, 1998, that he and the victim, Danny Ray Privett, had an argument approximately four weeks prior. The argument revolved about the Defendant being given a trailer frame by Mr. Richard LaSchance, the Defendant's landlord, with the understanding that the Defendant was to remove the trailer frame from the LaSchance property. After a couple of weeks had gone by, the Defendant noticed that the trailer frame was no longer located on the LaSchance property and discovered the trailer frame on property owned by the victim, Danny Ray Privett. The Defendant went onto the property of the victims and confronted Danny Ray Privett as to how he had come into possession of the trailer frame. A heated argument ensued but at no time did it become physical. The Defendant left the property of Danny Ray Privett but returned a short while later and advised Danny Ray Privett that he was allowing him to keep the trailer frame.

The Defendant allowed the Seminole County Sheriff's Office to search his trailer and car and to obtain hair, blood and DNA samples from him.

Pursuant to a search warrant, certain evidence was seized from the trailer residence and vehicle of the Defendant, Michael Gordon Reynolds, including boots, door frame and clothing.

AGGRAVATING CIRCUMSTANCES RELATING TO COUNT II, (VICTIM, ROBIN RAZOR)

The State of Florida has relied upon F.S. Aggravating Circumstances as set forth in F.S. 921.141(5). At the penalty phase, the State of Florida argued that four statutory aggravated circumstances as set forth in F.S. 921.141(5) exist to support its position that a sentence of death be imposed in Count II.

1. F.S. 921.141(5)(b) The Defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person.

a. It was proven during the penalty phase by the State of Florida that the Defendant had been convicted of prior felony convictions that involved the use or threat of violence to a person. Certified documentary proof was received by the Court which established the Defendant's prior convictions for aggravated robbery (Harris County, Texas, 1984); aggravated assault (Maricopa County, Arizona, 1993) and aggravated battery (Hillsborough County, Florida, 1999). The named victim in the Hillsborough County aggravated battery, Tanya Chapple, testified at the penalty phase hearing. Ms. Chapple identified the Defendant and advised that the Defendant did threaten her with a gun, physically attacked her and that she suffered physical injuries from the Defendant beating her. At the Spencer hearing, the Defendant overtly acknowledged his involvement in the Texas and Arizona cases. He directly related to the Court certain

aspects of the Arizona case which had not been presented by the State during the penalty phase.

b. The certified Judgment and Sentence of the Hillsborough County, Florida aggravated battery conviction coupled with the testimony of the victim, Tanya Chapple, proves beyond any doubt that the Defendant had previously been convicted of a felony involving the use or threat of violence to a person.

c. In the case at bar, Case No. 98-3341-CFA, State of Florida vs. Michael Gordon Reynolds, it was proven at trial during the guilt phase that the Defendant committed the offenses of Count I, Second Degree Murder of Danny Ray Privett and Count III, First Degree Murder of Christina Razor. The Court adjudicated the Defendant guilty of those offenses. Although these were contemporaneous qualifying prior violent or capital convictions, they may be considered as proof for the subject aggravating circumstance. King v. State, 390 So.2d 315 (Fla. 1980); Stein v. State, 632 So.2d 1361 (Fla. 1994); Francis v. State, 808 So. 2d 110 (Fla. 2003).

d. This aggravating circumstance has been proven beyond all reasonable doubt. This aggravating circumstance is given great weight by the Court.

2. F.S. 921.141(5)(d) The capital felony was committed while the Defendant was engaged or was an accomplice in the commission of or in an attempt to commit any burglary.

a. The jury found the Defendant guilty of this aggravator in Count IV, Burglary of a Dwelling with a Battery with a Weapon. The jury was justified in finding that the Defendant intended to commit a crime when he entered the gooseneck prowler

camper and that crime was murder so as to eliminate witnesses that could inform the police as to a suspect for the murder of Danny Ray Privett.

b. Substantial competent evidence was submitted at trial which proved the presence of the Defendant in the dwelling of the victims which was the gooseneck prowler camping trailer.

c. The Defendant's DNA was located inside the victims' dwelling. Previously he had stated to the authorities that he had never been inside the subject gooseneck prowler camping trailer. The Defendant's position that he was never in the subject dwelling eliminates any possibility that he could be considered an invitee or that consent to enter was withdrawn. No direct evidence was presented that the Defendant was an invitee nor was there any circumstantial evidence to be relied upon to assert that the Defendant was an invitee.

d. This aggravating circumstance has been proven beyond all reasonable doubt. This aggravating circumstance is given great weight by the Court.

3. F.S. 921.141(5)(e) <u>The capital felony was committed for the purpose of avoiding or preventing a lawful arrest.</u>

a. The Defendant knew the victims; and the victims, Danny Ray Privett and Robin Razor, knew the Defendant. They lived in close proximity to each other on the same street.

b. It was proven at trial that victim, Danny Ray Privett, was surreptitiously murdered outside the trailer. This stealthy killing was committed while Danny Ray Privett was about to engage, in the act of, or having just finished urinating.

The Defendant approached the victim, unnoticed, then viciously and deliberately battered the Defendant's skull with a piece of concrete.

c. The victim was rendered unconscious almost immediately and died a short period thereafter without regaining consciousness according to the Medical Examiner.

d. The gooseneck prowler trailer, being located some distance away, would not necessarily afford its occupants the opportunity to either see or hear the murder of Danny Ray Privett.

e. Should the perpetrator be unknown to the victims located inside the gooseneck prowler trailer, there would be no need for him to proceed to the trailer and murder its occupants if he was not seen or heard by the remaining victims.

f. The victim, Robin Razor, did know the Defendant and had expressed her dislike and mistrust of the Defendant to several acquaintances. It was necessary for the Defendant to eliminate Robin Razor to avoid arrest because Robin Razor would advise the authorities that the Defendant would be a primary suspect.

g. Darrell Courtney testified at the guilt/innocence phase that the Defendant admitted that he had killed the victims. The Defendant expressed regret to Courtney over having to kill the child, Christina Razor, but advised that "with my record I couldn't afford to leave any witnesses".

h. The relationship that existed between the Defendant and Darrell Courtney was borne out of mutual respect due to their joint status of being convicted felons who had served time in prison. Darrell Courtney is logically the type of individual with whom the Defendant would share this information concerning the murders. The

Defendant also had requested that Darrell Courtney perform an act on the Defendant's behalf concerning a jail guard. Said request was set forth in the Defendant's letter to Courtney and admitted into evidence.

i. This aggravating circumstance has been proven beyond all reasonable doubt. This aggravating circumstance is given great weight by the Court.

4. F.S. 921.141(5)(h) The capital felony was especially heinous, atrocious or cruel.

a. Dr. Sarah Irrgang, the medical examiner, testified that victim, Robin Razor, suffered multiple stab wounds to the head and neck area and one to the torso. It was Dr. Irrgang's testimony that Robin Razor also suffered a number of defensive wounds to the arms and hands.

b. The presence of defensive wounds allows the assumption to be made that the victim was alive unless shown otherwise by the evidence.

c. The existence of numerous defensive wounds demonstrates that the victim was aware of her plight and was resisting.

d. The medical examiner also testified that torment wounds were present. Wounds of this type are normally associated with the perpetrator taking a depraved, measured approach to the infliction of the injury and taking pleasure in his cruel activity.

e. The numerous stab and cutting wounds suffered by the victim, Robin Razor, are consistent with having been made by a weapon such as a knife and did produce copious amounts of blood. At the moment that the victim, Robin Razor, was being attacked, it is not known whether or not her daughter was still alive and conscious or unconscious or had been murdered. Regardless, in the close confines of that cramped

camping trailer, a bloodied Robin Razor, in great pain as a result of numerous wounds to her body, was forced to fight a losing battle for her life knowing that either her daughter had already been killed and she was next or that if Reynolds prevailed, her daughter would suffer certain death. It is not difficult to imagine the fear, terror and emotional strain that accompanied Robin Razor as she fought for her life knowing full well the consequences of losing the battle. Socher v. Florida, 580 So.2d 595, 603 (Fla. 1991), rev'd on other grounds. Socher v. State, 112 S.Ct. 2114 (1992).

f. In addition to the victim, Robin Razor, having suffered multiple stab and cut wounds, evidence was presented at trial that the victim was beaten about her head with a piece of concrete block The blood of Danny Ray Privett was mingled with that of the victim, Robin Razor, on the concrete block located within the camper.

g. As a result of the above-mentioned factors, Robin Razor, while still conscious and alert suffered great physical pain, mental torment, fear and emotional anguish.

h. This aggravating circumstance has been proven beyond all reasonable doubt. This aggravating circumstance is given great weight by the Court.

None of the other aggravating circumstances enumerated by statute are applicable to Count II of the Indictment and no others were considered by this Court. Nothing except as indicated in paragraphs 1 through 4 above was considered as an aggravating circumstance for Count II of the Indictment.

STATUTORY MITIGATING CIRCUMSTANCES RELATING TO COUNT II, (VICTIM, ROBIN RAZOR)

Defendant, Michael Gordon Reynolds, waived his right both in writing and orally on the record to present mitigating evidence. Outside the presence of the jury, the Defendant stated his reasons why he did not want to present any additional evidence tending to demonstrate the existence of either statutory or non-statutory mitigating circumstances at the penalty phase before the jury. Upon the Defendant declining to present mitigating evidence at the penalty phase, the Court followed the procedures set forth by the Florida Supreme Court in Koon v. Duggar, 619 So.2d 246 (Fla. 1993).

The Court acknowledges that even though the Defendant has formally waived presentation of mitigation, it must consider and weigh any mitigation that is uncontradicted in determining the appropriate sentence. Accordingly, the Court will consider any and all mitigation presented during the course of the guilt phase, penalty phase, the Pre-Sentence Investigation Report and appropriate mitigation presented during the Spencer hearing.

1. The Defendant was gainfully employed.

a. Defendant established this fact that he was employed through a labor force during the guilt phase of the trial by way of the Seminole County Sheriff's Office videotaped statement of the Defendant.

b. At the Spencer hearing the Defendant stated that his chosen occupation was a roofer and that he worked hard at his trade.

c. The Court is reasonably convinced that this mitigating circumstance has been proven and is entitled to little weight.

2. The Defendant manifested appropriate courtroom behavior throughout the pendency of the guilt and penalty phases of the trial. Additionally, the Defendant manifested appropriate courtroom behavior during the Spencer hearing.

a. The Court had an opportunity to view the Defendant on a consistent basis during the course of the guilt phase, penalty phase and during the Spencer hearing. The Court finds that Defendant's behavior was appropriate throughout all aspects of his trial. The Defendant was cooperative with his attorneys, court officials and the court proper.

b. The Court is reasonably convinced that this mitigating circumstance has been proven and is entitled to little weight.

3. The Defendant cooperated with law enforcement.

a. The Court finds that cooperation with law enforcement can be a mitigating circumstance; however, in the instant case, the Defendant's videotaped statement only partially assisted law enforcement.

b. The videotape statement made by the Defendant was done in a fashion so as to be considered deceptive.

c. The videotape statement of the Defendant contained false and misleading statements.

d. The Defendant did voluntarily submit hair, blood and DNA samples. The Defendant also allowed law enforcement to search his residence.

e. The Court is reasonably convinced that this mitigating circumstance has been proven and is entitled to little weight..

4. Residual doubt.

a. The deposition of John Parker taken on December 10, 1998 and the unredacted statement of Justin Pratt given to Ray Parker and Larry Herron on July 23, 1998 were submitted by the defense for purposes of residual or lingering doubt. The Court is aware that "residual "or "lingering" doubt is not an appropriate mitigating circumstance. The defense submitted the statements as a continuation of their general theory of the case that parties other than the Defendant committed the murders. The Court understands the spirit of the defense's offering of the two statements to be considered by the Court.

b. These statements taken in conjunction with the unsworn oral statement of the Defendant at the Spencer hearing are being considered as allegations and argument designed to establish residual or lingering doubt. Way v. State, 760 So.2d 903 (Fla. 2000).

c. The two statements, and the oral statement of the Defendant at the Spencer hearing with respect to residual or lingering doubt will not be considered by the Court as a non-statutory mitigator for purposes of sentencing.

d. The Court gives no weight to the residual or lingering doubt claim made by the Defendant and will not consider this non-factor at all.

5. The Defendant had a difficult childhood.

The evidence presented by the Defendant regarding this mitigating factor has been submitted by way of the deposition of his sister, Stacia Adams, during the course of the Spencer hearing.

In summation, the Court sets forth the following mitigating circumstances that occurred during the Defendant's childhood.

a. The Defendant suffered from an upbringing marked by physical and psychological abuse.

b. The Defendant's father was a chronic alcoholic.

c. The Defendant's mother was chronically ill and was often hospitalized during the Defendant's childhood.

d. The Defendant was regularly hit, slapped and kicked by his drunken father, without warning.

e. During the school week, the Defendant would sometimes be kept awake all night by his father and would sometimes be awakened by having ice water poured on him.

f. The Defendant regularly cared for his disabled, wheelchair-bound sister because his mother was unable to do so.

g. The Defendant helped run household affairs around the home by cooking, cleaning and doing yard work.

h. The Defendant was very close to his mother, who died on Christmas day, 1975, when the Defendant was seventeen years old.

i. Despite the Defendant's father abusing him, the Defendant still showed his father respect and assisted him around the house.

j. The Defendant was a hard worker beginning his work history at an early age by working around the home and mowing lawns in the neighborhood.

k. The Defendant attended church as a child, even though his parents did not.

l. The Defendant's education was limited to the tenth grade.

m. The Defendant began using alcohol at an early age (14).

n. The Defendant had essentially no adult supervision as a child arising from his mother's chronic illness and his father's habitual drunkenness.

o. The Court is reasonably convinced that the mitigating circumstance of the Defendant having a difficult childhood has been proven. It is entitled to little weight.

6. The Defendant can easily adjust to prison life.

a. During the guilt phase of the trial, the State presented a letter from the Defendant to witness, Darrell Courtney, about the conditions within the Orange County Jail. He discussed such factors as the type of food served during meals, the ability to obtain seconds, the costs of goods at the commissary and the fact that his cell had a view of a lake.

b. The Defendant's written description of these factors demonstrates that the Defendant can and does adjust well to an institutional life.

c. Evidence was also presented during the Spencer hearing that the Defendant had been a member of prison gangs while serving time in Texas and Arizona prisons. The Defendant opined at the Spencer hearing that it was necessary for him to join a white supremist gang so as to protect himself inasmuch as he was not allowed "just to serve his time". The Defendant was heavily tattooed during his prison sentences with white supremacy symbols related to the Ku Klux Klan, including, but not limited to letters, hooded figures, flames, and other racist symbols.

d. The evidence demonstrates that while the Defendant is able to acclimate to prison life and becomes institutionalized rather quickly, it is not in an

appropriate fashion nor does it lend itself to the smooth operation of a prison facility. The Court is reasonably convinced that this mitigating circumstance has not been proven.

In the instant case, the Defendant presented no mitigation to the jury and the jury returned a recommendation of death by a vote of 12-0. The Court does not give the recommendation of the jury great weight. The advisory sentence of the jury is given less weight in accordance with Muhammad v. State, 782 So.2d 343, (Fla. 2001).

All aggravating circumstances and all mitigating circumstances have been discussed by the Court in this Order as they relate to Count II. Each of the individual aggravating circumstances proven by the State is given great weight and they far outweigh the mitigating circumstances. Each one of the aggravating circumstances in Count II, standing alone, would be sufficient to outweigh the minimal amount of mitigation that exists in Count II.

This Court finds that in weighing the aggravating circumstances against the mitigating circumstances, the scales of life and death tilt to the side of death in Count II of the Indictment.

AGGRAVATING CIRCUMSTANCES RELATING TO COUNT III, (VICTIM, CHRISTINA RAZOR)

The State of Florida has relied upon F.S. Aggravating Circumstances as set forth in F.S. 921.141(5). At the penalty phase, the State of Florida argued that five statutory aggravated circumstances as set forth in F.S. 921.141(5) exist to support its position that a sentence of death be imposed in Count III.

1. F.S. 921.141(5)(b) The Defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person.

a. It was proven during the penalty phase by the State of Florida that the Defendant had been convicted of prior felony convictions that involved the use or threat of violence to a person. Certified documentary proof was received by the Court which established the Defendant's prior convictions for aggravated robbery (Harris County, Texas, 1984); aggravated assault (Maricopa County, Arizona, 1993) and aggravated battery (Hillsborough County, Florida, 1999). The named victim in the Hillsborough County aggravated battery, Tanya Chapple, testified at the penalty phase hearing. Ms. Chapple identified the Defendant and advised that the Defendant did threaten her with a gun, physically attacked her and that she suffered physical injuries from the Defendant beating her. At the Spencer hearing, the Defendant overtly acknowledged his involvement in the Texas and Arizona cases. He directly related to the Court certain aspects of the Arizona case which had not been presented by the State during the penalty phase.

b. The certified Judgment and Sentence of the Hillsborough County, Florida aggravated battery conviction coupled with the testimony of the victim, Tanya Chapple, proves beyond any doubt that the Defendant had previously been convicted of a felony involving the use or threat of violence to a person.

c. In the case at bar, Case No. 98-3341-CFA, State of Florida vs. Michael Gordon Reynolds, it was proven at trial during the guilt phase that the Defendant committed the offenses of Count I, Second Degree Murder of Danny Ray Privett and Count II, First Degree Murder of Robin Razor. The Court adjudicated the Defendant guilty of those offenses. Although these were contemporaneous qualifying prior violent or capital convictions, they may be considered as proof for the subject aggravating

circumstance. King v. State, 390 So.2d 315 (Fla. 1980); Stein v. State, 632 So.2d 1361 (Fla. 1994); Francis v. State, 808 So. 2d 110 (Fla. 2002).

d. This aggravating circumstance has been proven beyond all reasonable doubt. This aggravating circumstance is given great weight by the Court.

2. F.S. 921.141(5)(d) The capital felony was committed while the Defendant was engaged or was an accomplice in the commission of or in an attempt to commit any burglary.

a. The jury found the Defendant guilty of this aggravator in Count IV, Burglary of a Dwelling with a Battery with a Weapon. The jury was justified in finding that the Defendant intended to commit a crime when he entered the gooseneck prowler camper and that crime was murder so as to eliminate witnesses that could inform the police as to a suspect for the murder of Danny Ray Privett.

b. Substantial competent evidence was submitted at trial which proved the presence of the Defendant in the dwelling of the victims which was the gooseneck prowler camping trailer.

c. The Defendant's DNA was located inside the victims' dwelling. Previously he had stated to the authorities that he had never been inside the subject gooseneck prowler camping trailer. The Defendant's position that he was never in the subject dwelling eliminates any possibility that he could be considered an invitee or that consent to enter was withdrawn. No direct evidence was presented that the Defendant was an invitee nor was there any circumstantial evidence to be relied upon to assert that the Defendant was an invitee.

d. This aggravating circumstance has been proven beyond all reasonable doubt. This aggravating circumstance is given great weight by the Court.

3. F.S. 921.141(5)(e) The capital felony was committed for the purpose of avoiding or preventing a lawful arrest.

a. The Defendant knew the victims, and the victims, Danny Ray Privett and Robin Razor, knew the Defendant. They lived in close proximity to each other on the same street.

b. It was proven at trial that victim, Danny Ray Privett, was surreptitiously murdered outside the trailer. This stealthy killing was committed while Danny Ray Privett was about to engage, in the act of, or having just finished urinating. The Defendant approached the victim, unnoticed and viciously and deliberately battered the Defendant's skull with a piece of concrete.

c. The Defendant was rendered unconscious almost immediately and died a short period thereafter without regaining consciousness according to the Medical Examiner.

d. The gooseneck prowler trailer being located some distance away would not necessarily afford its occupants the opportunity to either see or hear the murder of Danny Ray Privett.

e. If the perpetrator was unknown to the victims located inside the gooseneck prowler trailer, there would be no need for him to proceed to the trailer and murder its occupants.

f. The victim, Robin Razor, did know the Defendant and had expressed her dislike and mistrust of the Defendant to several acquaintances. It was necessary for

the Defendant to eliminate Robin Razor to avoid arrest because Robin Razor would advise the authorities that the Defendant would be a primary suspect.

g. Darrell Courtney testified at the guilt/innocence phase that the Defendant admitted that he had killed the victims. The Defendant expressed regret to Courtney over having to kill the child, Christina Razor, but advised that "with my record I couldn't afford to leave any witnesses".

h. The relationship that existed between the Defendant and Darrell Courtney was borne out of mutual respect due to their joint status of being convicted felons who had served time in prison. Darrell Courtney is logically the type of individual with whom the Defendant would share this information concerning the murders. The Defendant also had requested that Darrell Courtney perform an act on the Defendant's behalf concerning a jail guard. Said request was set forth in the Defendant's letter to Courtney and admitted into evidence.

i. This aggravating circumstance has been proven beyond all reasonable doubt. This aggravating circumstance is given great weight by the Court.

4. F.S. 921.141(5)(h) <u>The capital felony was especially heinous, atrocious or cruel.</u>

a. Dr. Sarah Irrgang, the medical examiner, testified that victim, Christina Razor, suffered two stab wounds to the neck and shoulder area, contusions to her face, and injuries to her mouth. It was Dr. Irrgang's testimony that Christina Razor also suffered an abrasion on the back of one of her hands which was characterized as being consistent with a defensive wound.

b. The presence of a defensive wound allows the assumption to be made that the victim was alive unless shown otherwise by the evidence.

c. The existence of a defensive wound demonstrates that the victim was aware of her plight and was resisting. The stab wounds suffered by the victim, Christina Razor, are consistent with having been made by a weapon such as a knife.

d. At the moment that the victim, Christina Razor, was being attacked, it is not known whether or not her mother was still alive, conscious or unconscious or had been murdered. Regardless, in the close confines of that cramped camping trailer, Christina Razor, in great pain and fear, was forced to fight a losing battle for her life knowing that either her mother had already been killed and she was next, or that after Reynolds killed her, he was sure to end her mother's life. For a child to experience the fear, terror and emotional strain that accompanied Christina Razor as she fought for her life, knowing full well that she was fighting a losing battle, is unimaginable, heinous, atrocious and cruel. In a prior decision, the Florida Supreme Court has dealt with a similar situation. Francis v. State, 808 So.2d 110 (Fla. 2003). The Francis decision discusses the unique circumstances associated with close proximity homicides:

> Morever, as we have previously noted, "the fear and emotional strain preceding the death of the victim may be considered as contributing to the heinous nature of a capital felony." See Walker, 707 So.2d at 315; see also James v. State, 695 So.2d 1229, 1235 (Fla. 1997) ("[F]ear, emotional strain, and terror of the victim during the events leading up to the murder may make an otherwise quick death especially heinous, atrocious, or cruel."). In this case, although the evidence did not

establish which of the two victims was attacked first, the one who was first attacked undoubtedly experienced a tremendous amount of fear, not only for herself, but also for what would happen to her twin. In a similar manner, the victim who was attacked second must have experienced extreme anguish at witnessing her sister being brutally stabbed and in contemplating and attempting to escape her inevitable fate. We arrive at this logical inference based on the evidence, including photographs presented at the guilt phase, which clearly establishes that these two women were murdered in their home only a few feet apart from each other. As a result, we conclude that the trial court's HAC finding is further buttressed by the logical fear and emotional stress experienced by the two elderly sisters prior to their deaths as the events were unfolding in close proximity to one another.

e. This aggravating circumstance has been proven beyond all reasonable doubt. This aggravating circumstance is given great weight by the Court.

5. F.S. 921.141(5)(l) The victim of the capital felony was a person less than twelve years of age.

a. It was established during the penalty phase by competent evidence that the victim, Christina Razor, was a person less than twelve years of age at the time of her homicide.

b. The victim's grandmother, Shirley Razor, testified that the victim was eleven years old at the time she was murdered by the Defendant.

c. This aggravating circumstance has been proven beyond all reasonable

doubt. This aggravating circumstance is given great weight by the Court.

None of the other aggravating circumstances enumerated by statute are applicable to Count III of the Indictment and no others were considered by this Court. Nothing except as indicated in paragraphs 1 though 5 above was considered as an aggravating circumstance for Count III of the Indictment.

STATUTORY MITIGATING CIRCUMSTANCES RELATING TO COUNT III, (VICTIM, CHRISTINA RAZOR)

Defendant, Michael Gordon Reynolds, waived his right both in writing and orally on the record to present mitigating evidence. Outside the presence of the jury, the Defendant stated his reasons why he did not want to present any additional evidence tending to demonstrate the existence of either statutory or non-statutory mitigating circumstances at the penalty phase before the jury. Upon the Defendant declining to present mitigating evidence at the penalty phase, the Court followed the procedures set forth by the Florida Supreme Court in Koon v. Duggar, 619 So.2d 246 (Fla. 1993).

The Court acknowledges that even though the Defendant has formally waived presentation of mitigation, it must consider and weigh any mitigation that is uncontradicted in determining the appropriate sentence. Accordingly, the Court will consider any and all mitigation presented during the course of the guilt phase, penalty phase, the Pre-Sentence Investigation Report and appropriate mitigation presented during the Spencer hearing.

1. The Defendant was gainfully employed.

    a. Defendant established this fact that he was employed through a labor

force during the guilt phase of the trial by way of the Seminole County Sheriff's Office videotaped statement of the Defendant.

b. At the Spencer hearing the Defendant stated that his chosen occupation was a roofer and that he worked hard at his trade.

c. The Court is reasonably convinced that this mitigating circumstance has been proven and is entitled to little weight.

2. The Defendant manifested appropriate courtroom behavior throughout the pendency of the guilt and penalty phases of the trial. Additionally, the Defendant manifested appropriate courtroom behavior during the Spencer hearing.

a. The Court had an opportunity to view the Defendant on a consistent basis during the course of the guilt phase, penalty phase and during the Spencer hearing. The Court finds that Defendant's behavior was appropriate throughout all aspects of his trial. The Defendant was cooperative with his attorneys, court officials and the court proper.

b. The Court is reasonably convinced that this mitigating circumstance has been proven and is entitled to little weight.

3. The Defendant cooperated with law enforcement.

a. The Court finds that cooperation with law enforcement can be a mitigating circumstance; however, in the instant case, the Defendant's videotaped statement only partially assist law enforcement.

b. The videotape statement made by the Defendant was done in a fashion so as to be considered deceptive.

c. The videotape statement of the Defendant contained false and misleading statements.

d. The Defendant did voluntarily submit hair, blood and DNA samples. The Defendant also allowed law enforcement to search his residence.

e. The Court is reasonably convinced that this mitigating circumstance has been proven and is entitled to little weight.

4. Residual doubt.

a. The deposition of John Parker taken on December 10, 1998 and the unredacted statement of Justin Pratt given to Ray Parker and Larry Herron on July 23, 1998 were submitted by the defense for purposes of residual or lingering doubt. The Court is aware that "residual "or "lingering" doubt is not an appropriate mitigating circumstance. The defense submitted the statements as a continuation of their general theory of the case that parties other than the Defendant committed the murders. The Court understands the spirit of the defense's offering of the two statements to be considered by the Court.

b. These statements taken in conjunction with the unsworn oral statement of the Defendant at the Spencer hearing are being considered as allegations and argument designed to establish residual or lingering doubt. Way v. State, 760 So.2d 903 (Fla. 2000).

c. The two statements, and the oral statement of the Defendant at the Spencer hearing with respect to residual or lingering doubt will not be considered by the Court as a non-statutory mitigator for purposes of sentencing.

d. The Court gives no weight to the residual or lingering doubt claim made by the Defendant and will not consider this non-factor at all.

5. The Defendant had a difficult childhood.

The evidence presented by the Defendant regarding this mitigating factor has been submitted by way of the deposition of his sister, Stacia Adams, during the course of the Spencer hearing.

In summation, the Court sets forth the following mitigating circumstances that occurred during the Defendant's childhood.

a. The Defendant suffered from an upbringing marked by physical and psychological abuse.

b. The Defendant's father was a chronic alcoholic.

c. The Defendant's mother was chronically ill and was often hospitalized during the Defendant's childhood.

d. The Defendant was regularly hit, slapped and kicked by his drunken father, without warning.

e. During the school week, the Defendant would sometimes be kept awake all night by his father and would sometimes be awakened by having ice water poured on him.

f. The Defendant regularly cared for his disabled, wheelchair-bound sister because his mother was unable to do so.

g. The Defendant helped run household affairs around the home by cooking, cleaning and doing yard work.

h. The Defendant was very close to his mother, who died on Christmas day, 1975, when the Defendant was seventeen years old.

i. Despite the Defendant's father abusing him, the Defendant still showed his father respect and assisted him around the house.

j. The Defendant was a hard worker beginning his work history at an early age by working around the home and mowing lawns in the neighborhood.

k. The Defendant attended church as a child, even though his parents did not.

l. The Defendant's education was limited to the tenth grade.

m. The Defendant began using alcohol at an early age (14).

n. The Defendant had essentially no adult supervision as a child arising from his mother's chronic illness and his father's habitual drunkenness.

o. The Court is reasonably convinced that the mitigating circumstance of the Defendant having a difficult childhood has been proven. It is entitled to little weight.

6. The Defendant can easily adjust to prison life.

a. During the guilt phase of the trial, the State presented a letter from the Defendant to witness, Darrell Courtney, about the conditions within the Orange County Jail. He discussed such factors as the type of food served during meals, the ability to obtain seconds, the costs of goods at the commissary and the fact that his cell had a view of a lake.

b. The Defendant's written description of these factors demonstrates that the Defendant can and does adjust well to an institutional life.

c. Evidence was also presented during the Spencer hearing that the Defendant had been a member of prison gangs while serving time in Texas and Arizona prisons. The Defendant opined at the Spencer hearing that it was necessary for him to join a white supremist gang so as to protect himself inasmuch as he was not allowed "just to serve his time". The Defendant was heavily tattooed during his prison sentences with white supremacy symbols related to the Ku Klux Klan, including, but not limited to letters, hooded figures, flames, and other racist symbols.

d. The evidence demonstrates that while the Defendant is able to acclimate to prison life and becomes institutionalized rather quickly, it is not in an appropriate fashion nor does it lend itself to the smooth operation of a prison facility. The Court is reasonably convinced that this mitigating circumstance has not been proven.

In the instant case, the Defendant presented no mitigation to the jury and the jury returned a recommendation of death by a vote of 12-0. The Court does not give the recommendation of the jury great weight. The advisory sentence of the jury is given less weight in accordance with Muhammad v. State, 782 So.2d 343, (Fla. 2001).

All aggravating circumstances and all mitigating circumstances have been discussed by the Court in this Order as they relate to Count III. Each of the individual aggravating circumstances proven by the State is given great weight and they far outweigh the mitigating circumstances. Each one of the aggravating circumstances in Count III, standing alone, would be sufficient to outweigh the minimal amount of mitigation that exists in Count III.

This Court finds that in weighing the aggravating circumstances against the mitigating circumstances, the scales of life and death tilt to the side of death in Count III of the Indictment.

MICHAEL GORDON REYNOLDS, you have not only forfeited your right to live among us, but under the laws of the State of Florida you have forfeited your right to live at all. Accordingly, it is hereby

ORDERED AND ADJUDGED as to Count I. of the Indictment, Second Degree Murder, a first degree felony punishable by life, the murder of **DANNY RAY PRIVETT**, the Defendant is hereby sentenced to life in prison. It is further

ORDERED AND ADJUDGED as to Count II. of the Indictment, First Degree Murder, a capital felony, punishable by death, the murder of **ROBIN RAZOR**, the Defendant is hereby sentenced to death. It is further

ORDERED AND ADJUDGED as to Count III. of the Indictment, First Degree Murder, a capital felony punishable by death, the murder of **CHRISTINA RAZOR**, the Defendant is hereby sentenced to death. It is further

ORDERED AND ADJUDGED as to Count IV. of the Indictment, Burglary of a Dwelling with a Battery with a Weapon (Reclassified), a First Degree Life Felony, the Defendant is hereby sentenced to life in prison. It is further

ORDERED AND ADJUDGED that each of these sentences will run concurrent with each other and concurrent to the sentences of death. The Defendant is entitled to credit for time served in the County correctional facility awaiting sentencing since August 21, 1998 for a credit of 1856 days.

You are hereby remanded to the custody of the Department of Corrections. You will then advise the Department of Corrections as to whether you chose to be put to death by way of lethal injection or by electrocution.

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

MAY GOD HAVE MERCY ON YOUR SOUL.

DONE AND ORDERED at Sanford, Seminole County, Florida this 19th day of September, 2003.

KENNETH R. LESTER, JR., CIRCUIT JUDGE

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