IN THE

SUPREME COURT OF THE UNITED STATES

DANIEL JACOB CRAVEN
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

APPENDIX TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE UNITED STATES STATE OF FLORIDA

APPENDIX	DOCUMENT
A	Opinion From the Florida Supreme Court rendered on October 22, 2020.
B	Order From the Florida Supreme Court Denying Motion For Rehearing rendered on February 11, 2021.
C	Relevant Portion of Petitioner's Initial Brief filed in the Florida Supreme Court.

310 So.3d 891
Supreme Court of Florida.

Daniel Jacob CRAVEN, Jr., Appellant,
v.
STATE of Florida, Appellee.

No. SC18-1643
|
October 22, 2020

Synopsis
Background: Defendant was convicted in the Circuit Court, 14th Judicial Circuit, Jackson County, Christopher N. Patterson, J., of first-degree murder of fellow inmate at correctional facility and was sentenced to death. Defendant appealed.

Holdings: The Supreme Court held that:

defendant's request for self-representation was equivocal;

court appropriately determined white murder defendant's proffered reason for exercising peremptory strike against Black juror was pretext;

statements of victim of prior murder were admissible to assist jury in evaluating the character of the defendant and the circumstances of the prior murder;

evidence was sufficient to support application of the heinous, atrocious, or cruel aggravator;

evidence was sufficient to support finding that defendant's murder of his cell mate was cold, calculated, and premeditated;

sentence of death was not disproportionate; and

substantial evidence supported conviction for first-degree murder under the theory that the killing was premeditated.

Affirmed.

Canady, C.J., dissented with opinion.

Procedural Posture(s): Appellate Review; Jury Selection Challenge or Motion; Sentencing or Penalty Phase Motion or Objection; Trial or Guilt Phase Motion or Objection.

***894** An Appeal from the Circuit Court in and for Jackson County, Christopher N. Patterson, Judge - Case No. 322016CF000451CFAXMX

Attorneys and Law Firms

Andy Thomas, Public Defender, and A. Victoria Wiggins, Assistant Public Defender, Second Judicial Circuit, Tallahassee, Florida, for Appellant

Ashley Moody, Attorney General, and Michael T. Kennett, Assistant Attorney General, Tallahassee, Florida, for Appellee

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Opinion

PER CURIAM.

****1 *895** Daniel Jacob Craven, Jr., appeals his conviction for first-degree murder and his sentence of death. We have jurisdiction. *See* art. V, § 3(b)(1), Fla. Const. For the reasons below, we affirm Craven's conviction and sentence.

BACKGROUND

While serving a sentence of life without the possibility of parole for a conviction of first-degree murder with a weapon, Craven stabbed his cellmate, John H. Anderson, to death with a homemade knife that Craven had fashioned from a piece of their cell door. Craven confessed, multiple times, to killing Anderson and was charged with first-degree premeditated murder. During the guilt-phase opening statements at Craven's trial, defense counsel admitted that Craven had murdered Anderson but argued that Craven was guilty of second-degree murder.

The evidence presented at trial established that upon Craven's arrival at Graceville Correctional Facility in early April 2015, Craven, a white supremacist with a swastika tattoo, was assigned to share a cell with the victim, who was African American. Craven almost immediately requested to be reassigned to a different cell, claiming that he and the victim were not getting along, but ultimately withdrew the request and indicated that he and the victim would work it out.

On June 25, 2015, three days before the victim's murder, Craven called his mother and demanded that she come to visit him. When Craven's mother stated that she might not be able to make the trip, Craven told her, "Then don't plan on it for about five years." During their phone call, Craven's mother advised him to wait to give himself some time "for whatever is on [his] mind," to which Craven responded, "I made up my mind a long time ago." On June 27, 2015, the day before the victim's murder, Craven's mother visited with him for several hours. After Craven's mother left the facility, Craven called her and told her "not to worry" and that "he loves her."

At 10:07 p.m. on June 27, after watching the movie *Selma*, the victim entered the two-person cell that he shared with Craven. Craven entered the cell just after 1 a.m. on the morning of June 28, 2015. A corrections officer conducted a visual inspection of the cell door at 1:31 a.m. and did not note anything unusual. At 4:44 a.m., Craven left the cell for breakfast and placed a sign on the window, purportedly from the victim, that stated "[s]tomach bug, sleeping, please do not knock or disturb my rest." Craven entered and exited the cell several times throughout the morning of June 28. At 12:25 p.m., Craven told a corrections officer that he had killed his roommate around 2 a.m. that morning.

Corrections officers found Anderson's body in the cell, and he was pronounced dead. Craven subsequently confessed multiple times to stabbing Anderson to death, to cleaning up the cell, and to hiding the murder weapon in a sock and placing it in a shower grate, where law enforcement later recovered it.

The medical examiner testified that Anderson suffered approximately thirty wounds to his head, throat, neck, and upper torso, twelve of which were stab wounds that punctured Anderson's skin ***896** and the remainder of which were incision wounds that cut Anderson's skin. Stab wounds to Anderson's windpipe and jugular vein were critical, and the cause of death was a combination of significant blood loss and the inhalation of blood as a result of the stab wounds. The medical examiner further testified that there were no injuries that would have likely rendered Anderson unconscious, that there were defensive wounds on Anderson's palms and wrists, and that Anderson's death was not immediate and may have taken from minutes to half an hour, during which time Anderson received painful stab and incision wounds while he essentially drowned in his own blood.

****2** During law enforcement's investigation, bloodstains on Craven's socks and boxer shorts and blood recovered from Craven's ear matched Anderson's DNA. Additionally, a partial DNA match to Anderson was found on the murder weapon, and blood recovered from a wall in Craven and Anderson's cell matched Anderson's DNA.

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Craven's jury also heard testimony from an inmate who was housed a few cells away from Craven and Anderson's cell. On the morning of Anderson's murder, the inmate testified that, between 1:30 and 2 a.m., he heard "stumbling" and someone saying "get off of me" and "help me" from the vicinity of Craven and Anderson's cell.

In addition, the jury heard statements that Craven had made to law enforcement, in which he admitted stabbing Anderson to death and that the killing was "planned out," plus letters that Craven had written to government officials, in which he confessed to killing Anderson and threatened his "personal brand of justice" unless he was sentenced to death. One of Craven's letters was titled "Full Confession to a Capital Murder from the Killer," and in it Craven described how he carried out his plan to kill Anderson, who Craven said was asleep in his bunk for an hour to an hour and a half before he began his attack:

> I, Daniel Craven, stood up and moved my cards as not to get blood on them, and put up my radio for the same reason, started setting up for the plan I had for about two days. As I started to carry out the assassination on J. Anderson, ... the thought of another walk-through at 2:00 AM made me hold off. As the officers did their walk, I did my normal and watched them. They left the dorm, and I turned my attention to John. Mindful of how far a scream can flow in an open quiet gym style living condition, I aimed for [his] throat. I walked over to John, put my hand over his mouth, and before he opened his eyes, I stabbed him in the thr[o]at once. He instantly started screaming and kicking and clawing, but I am 300 pounds with wrestling and cage experience, and also have been some form of bouncer my whole life, he wasn't going anywhere. All of my stabs were intentional aims and placed with purpose. I took my time, none were accidental or in self defense or wild. I did not count, but I'm sure it was more than ten but less than 20, 13 to 16 best guess, with one exception: I tried to see if I could bury the knife through the skull on the left side top, but he moved and it didn't catch right.
>
> ... When John finally stopped spitting blood everywhere, I grabbed his face and told him to go to sleep. His eyes faded. I shoved him down back on his bed and stripped. I grabbed all his clothes and my clothes and started cleaning up the blood, not to get away with anything, just to buy time until I could do a proper farewell to my brothers. With all the bloody clothes, most of them were slung under his bunk, the rest stuffed in his drawer, I took a bath in the sink with his soap. I then rolled ***897** about three and a half grams into two sticks (joints) and smoked and listened [to music], and played [cards] until the doors were open for chow. Assuming people or officers were coming to see what the noise was earlier, I made my rounds. No one came. I grabbed my food and gave it away, locked my door so I could open it, and went back to hanging out. ... Then came lunch. I ate, smoked again, and then tried to go to rec. I couldn't get on the yard, and so as I was tired and bored, I went and had to tell the officer hey I killed my bunkie. This was around 2:00 PM same day.

****3** On June 28, 2018, Craven's jury found him guilty of first-degree murder.[1] The penalty-phase proceeding was held the following day. After hearing witness testimony from the prosecutor in Craven's prior murder case, Craven's halfbrother, and mental health experts for both Craven and the State, and arguments from the State and Craven, the jury unanimously found that the State had proven the following aggravating factors beyond a reasonable doubt: (1) Craven was previously convicted of a felony and under sentence of imprisonment; (2) Craven was previously convicted of another capital felony or of a felony involving the use of violence to another person; (3) the first-degree murder was especially heinous, atrocious, or cruel (HAC); and (4) the first-degree murder was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification (CCP). The jury unanimously concluded that the aggravating factors were sufficient to warrant a possible sentence of death and that the aggravating factors outweighed the mitigating circumstances.[2] Ultimately, the jury unanimously concluded that Craven should be sentenced to death.

After holding a *Spencer*[3] hearing, at which Craven presented additional mitigation, including his medical, school, and Department of Corrections records, the trial court sentenced Craven to death. In so doing, the trial court made its own findings with respect to the aggravation and mitigation. Specifically, the trial court found and assigned the noted weight to the following statutory aggravating factors: (1) the capital felony was committed by a person previously convicted of a felony and under sentence of imprisonment (some weight); (2) prior violent felony based on Craven's prior conviction for first-degree murder with a weapon, a capital felony (very great weight); (3) the first-degree murder of Anderson was especially heinous, atrocious, or cruel (very great weight); and (4) the first-degree murder of Anderson was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification (very great weight). The trial court found these four aggravating factors "sufficient to warrant the death penalty."

Under the catchall statutory mitigating circumstance of any factors in the defendant's background that would mitigate against

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the imposition of the death penalty, *see* § 921.141(7)(h), Fla. Stat. (2017), the trial court found that the following mitigating circumstances had been established by the greater weight of the evidence and assigned them the noted weight: (1) chaotic and dysfunctional upbringing ***898** (significant weight); (2) no evidence of biological father present in Craven's life (some weight); (3) Craven is able to maintain meaningful relationships (slight weight); (4) Craven has mental health issues (significant weight); and (5) Craven maintained appropriate courtroom behavior (little weight). The trial court rejected Craven's proposed mitigating circumstance that he had maintained employment prior to his incarceration, finding that Craven failed to establish this mitigating circumstance by the greater weight of the evidence.

The trial court sentenced Craven to death, finding that "the aggravating factors far outweigh the mitigating circumstances." The trial court also compared Craven's case to "other factually similar cases" and concluded that "the death penalty is not disproportionately applied to [Craven]."

ANALYSIS

Craven now appeals his conviction and sentence of death, raising the following claims: (1) the trial court erred in denying his request for self-representation; (2) the trial court erred in denying his peremptory challenge to juror Ford; (3) the trial court fundamentally erred by not instructing the penalty phase jury to determine beyond a reasonable doubt whether the aggravating factors were sufficient and outweighed the mitigating circumstances; (4) the trial court erred in admitting statements made by Craven's prior victim in support of the prior violent felony aggravator; (5) the trial court erred in finding the HAC aggravator; (6) the trial court erred in finding the CCP aggravator; and (7) Craven's death sentence is disproportionate. In addition, we review whether the evidence is sufficient to support Craven's conviction for first-degree murder.

(1) Self-Representation

****4** Craven first argues that the trial court erred in denying his request for self-representation. We review the trial court's ruling for abuse of discretion, *see Damas v. State*, 260 So. 3d 200, 212 (Fla. 2018), and find none.

As we have explained, "[a] criminal defendant has the right to self-representation, *Faretta* [*v. California*, 422 U.S. 806, 819, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975)], and a trial court 'shall not deny a defendant's *unequivocal* request to represent himself or herself, if the court makes a determination of record that the defendant has made a knowing and intelligent waiver of the right to counsel.' *Weaver v. State*, 894 So. 2d 178, 192 (Fla. 2004) (quoting Fla. R. Crim. P. 3.111(d)(3))." *Damas*, 260 So. 3d at 212 (emphasis added).

In Craven's case, the record shows that although Craven initially requested to represent himself, he had a change of heart before his trial began. Specifically, toward the end of the second of two *Faretta* inquiries that the trial court conducted, in response to the trial court's question of whether Craven would be "all right with your attorneys remaining in place so long as they abided by your decisions as to the presentation of mitigating evidence," Craven answered, "Yes, sir." In light of Craven's change of heart, we conclude that the trial court did not abuse its discretion in denying Craven's request for self-representation as equivocal. *See Brown v. State*, 45 So. 3d 110, 115 (Fla. 1st DCA 2010) (recognizing that, absent deliberate manipulation of the proceedings, "a defendant may change his mind about self-representation at the beginning of any crucial stage of a criminal prosecution"); *see also Hardwick v. State*, 521 So. 2d 1071, 1074 (Fla. 1988) (recognizing that "vacillation on the question of self-representation has been held a sufficient grounds for denying the ***899** request"), *superseded on other grounds as stated in Hooks v. State*, 286 So. 3d 163, 169 (Fla. 2019); *cf. Weaver*, 894 So. 2d at 193 ("A defendant who *persists* in discharging competent counsel after being informed that he is not entitled to substitute counsel is presumed to be unequivocally exercising his right of self-representation.") (emphasis added).

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(2) Peremptory Challenge

Craven next argues that the trial court erred in denying his peremptory challenge to juror Ford, an African American, on the ground that Craven failed to provide a race-neutral reason for striking Ford.[4] We review the trial court's ruling for abuse of discretion. *See Truehill v. State*, 211 So. 3d 930, 942 (Fla. 2017).

"Under Florida law, a party's use of peremptory challenges is limited only by the rule that the challenges may not be used to exclude members of a 'distinctive group,' " such as race. *San Martin v. State*, 705 So. 2d 1337, 1343 (Fla. 1997). The following three-step test applies in determining whether a proposed peremptory challenge is race-neutral:

> A party objecting to the other side's use of a peremptory challenge on racial grounds must: a) make a timely objection on that basis, b) show that the venireperson is a member of a distinct racial group, and c) request that the court ask the striking party its reason for the strike. If these initial requirements are met (step 1), the court must ask the proponent of the strike to explain the reason for the strike.
>
> ****5** At this point, the burden of production shifts to the proponent of the strike to come forward with a race-neutral explanation (step 2). If the explanation is facially race-neutral and the court believes that, given all the circumstances surrounding the strike, the explanation is not a pretext, the strike will be sustained (step 3). The court's focus in step 3 is not on the reasonableness of the explanation but rather its genuineness. Throughout this process, the burden of persuasion never leaves the opponent of the strike to prove purposeful racial discrimination.

Melbourne v. State, 679 So. 2d 759, 764 (Fla. 1996) (footnotes omitted).

Craven's case involves step 3 of *Melbourne*. As we have explained with respect to that step,

> "[t]here are no specific words which the court must state to satisfy step three of the *Melbourne* analysis." *Murray v. State*, 3 So. 3d 1108, 1119 (Fla. 2009) (quoting *Simmons v. State*, 940 So. 2d 580, 582 (Fla. 1st DCA 2006)). "Rather, the most important consideration is that the trial judge actually 'believes that given all the circumstances surrounding the strike, the explanation is not a pretext.' " *Id.* at 1120 (quoting *Rodriguez v. State*, 753 So. 2d 29, 40 (Fla. 2000)).

Guzman v. State, 238 So. 3d 146, 155 (Fla. 2018). Moreover, "[t]he trial court's decision in ruling on the genuineness of the race-neutral basis for a peremptory challenge should be affirmed unless clearly erroneous." *Dorsey v. State*, 868 So. 2d 1192, 1200 (Fla. 2003).

To analyze whether the trial court erred in finding that Craven's proffered reason for the strike was a pretext, we review the alleged race-neutral reasons given and the relevant circumstances in ***900** which they were made. *Nowell v. State*, 998 So. 2d 597, 604 (Fla. 2008). Circumstances relevant to our analysis include, but are not limited to, the following: "the racial make-up of the venire; prior strikes exercised against the same racial group; a strike based on a reason equally applicable to an unchallenged juror; or singling the juror out for special treatment." *Melbourne*, 679 So. 2d at 764 n.8.

In this case, Craven, who is white, had clear racial motivations for murdering Anderson, who was black. The record indicates that only six members of the approximately seventy-five-member venire were black. Only one black juror served on the jury without objection by Craven. By the time Craven proposed a peremptory strike against juror Ford, Craven had successfully exercised a peremptory strike as to one other black prospective juror (Hunter), and he had also proposed a peremptory strike against a second black prospective juror (Holden).[5]

Craven's alleged race-neutral reason for striking juror Ford was that, although rehabilitated, juror Ford "was one of those whose original impulse was if [the murder] was found to be premeditated, then [the sentence] would be the death penalty." Although Craven argues, and the dissent concludes, that the trial court failed to undertake the required genuineness inquiry of defense counsel's alleged facially race-neutral reason for the strike, we disagree. The record demonstrates that the trial court was clearly taken aback by Craven's proffered reason because Craven had not previously argued that juror Ford was predisposed to the death penalty. In contrast to defense counsel's treatment of juror Ford, the record shows that Craven had raised unsuccessful for-cause challenges, based on alleged predisposition to death, to non-black prospective jurors whose voir dire responses regarding their views of the death penalty were similar to juror Ford's responses.[6] Accordingly, when Craven proffered predisposition to death as the race-neutral reason for the proposed peremptory strike of juror Ford, the trial court

looked to its notes, which did not reflect that juror Ford "would automatically sway to death or that he felt strongly in favor of death or that he didn't think he could be fair."

****6** The trial court's conclusion is not without record support. Although juror Ford's initial response to the question of how he "feel[s]" about the death penalty does lend some support to Craven's argument that, at least initially, juror Ford believed the death penalty to be an appropriate punishment for first-degree premeditated murder, that is not tantamount to being predisposed to the death penalty.[7] Instead, the record shows that juror Ford never ***901** firmly equated the death penalty with first-degree premeditated murder and that he clarified any confusion created by his initial answer through responses to follow-up questions, including by stating that he would not automatically vote for the death penalty if Craven was convicted of first-degree premeditated murder and that he would listen to all of the evidence and consider all of the proposed mitigation.

Moreover, like the trial court, the State represented that its notes did not reflect that juror Ford was predisposed to the death penalty. The State also argued that defense counsel had confused juror Ford's voir dire responses with the responses of another prospective juror (Glisson) who had been questioned at the same time as juror Ford and stricken for cause after stating that she would automatically vote for the death penalty if Craven was convicted of first-degree premeditated murder. Although the burden to prove purposeful racial discrimination remained with the State as the opponent of the strike, defense counsel did not dispute the State's argument that she had confused the two prospective jurors' responses or otherwise attempt make a record on this issue, and the State accurately described prospective juror Glisson's responses. Nor did defense counsel argue below that the trial court had failed to comply with step 3 of *Melbourne* in denying the peremptory strike to Juror Ford. *Cf. State v. Johnson*, 295 So. 3d 710, 714-16 (Fla. 2020).[8]

Nevertheless, the dissent would reverse based on its conclusion that the trial court never reached the genuineness of Craven's proffered facially race-neutral reason. In support, the dissent cites our decision in *Hayes v. State*, 94 So. 3d 452, 463 (Fla. 2012), for the proposition that we cannot assume that the trial court conducted the genuineness inquiry required by step 3 of *Melbourne* "where the record is completely devoid of any indication that the trial court considered circumstances relevant to whether a strike was exercised for a discriminatory purpose." Dissenting op. at 909 (quoting *Hayes*, 94 So. 3d at 463). However, in *Johnson*, where we disapproved of dicta in *Hayes*, we explained that "there will be some cases in which the trial judge does not believe the proffered reason to be genuine despite the contrary presumption, in which case the correct ruling under *Melbourne* would be to sustain the opponent's objection and disallow the strike." 295 So. 3d at 715. Although *Johnson* certainly did not relieve trial courts of the obligation to comply with all three steps of *Melbourne*, "there are no magic words that must be uttered by the trial judge in order to fulfill the *Melbourne* requirements." *Washington v. State*, 773 So. 2d 1202, 1204 n.2 (Fla. 3d DCA 2000). In Craven's case, even assuming that *Hayes* remains good law on the point cited by the dissent, we disagree with the dissent's assessment that the record is "devoid" of any indication that the trial court conducted *Melbourne*'s step-3 genuineness inquiry. Rather, it is clear that the trial court did not believe Craven's proffered race-neutral reason was genuine, in part because Craven had failed to raise the allegation of juror Ford's predisposition to death in the same manner that Craven had raised that allegation with respect to non-black prospective jurors. Indeed, as we ***902** have explained, the record indisputably shows that Craven did, in fact, treat juror Ford differently.

****7** Given the totality of the circumstances, and mindful of the deference owed to the trial court's resolution of the genuineness inquiry, we find no abuse of discretion in the trial court's finding that Craven's proffered reason for striking juror Ford was a pretext. *See Guzman*, 238 So. 3d at 155. Accordingly, we affirm the trial court's denial of Craven's peremptory challenge to juror Ford.

(3) Penalty Phase Jury Instructions

Craven next argues that the trial court fundamentally erred in instructing his penalty phase jury in accordance with the standard jury instructions, which do not require the jury to find beyond a reasonable doubt that the aggravating factors are sufficient and outweigh the mitigating circumstances. *See* Fla. Std. Jury Instr. (Crim.) 7.11. We have repeatedly rejected this argument. *See, e.g.*, *Newberry v. State*, 288 So. 3d 1040, 1047 (Fla. 2019) (rejecting fundamental-error claim because the sufficiency and weighing determinations "are not subject to the beyond a reasonable doubt standard of proof") (citing *Rogers v. State*, 285 So. 3d 872, 886 (Fla. 2019)); *see also McKinney v. Arizona*, —— U.S. ——, 140 S. Ct. 702, 707, 206 L.Ed.2d 69

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(2020) ("Under *Ring* [*v. Arizona*, 536 U.S. 584, 122 S.Ct. 2428, 153 L.Ed.2d 556 (2002),] and *Hurst* [*v. Florida*, 577 U.S. 92, 136 S. Ct. 616, 193 L.Ed.2d 504 (2016)], a jury must find the aggravating circumstance that makes the defendant death eligible. But importantly, in a capital sentencing proceeding, just as in an ordinary sentencing proceeding, a jury (as opposed to a judge) is not constitutionally required to weigh the aggravating and mitigating circumstances or to make the ultimate decision within the relevant sentencing range."); *State v. Poole*, 297 So. 3d 487, 507 (Fla. 2020) ("reced[ing] from *Hurst v. State* [202 So. 3d 40 (Fla. 2016)] except to the extent it requires a jury unanimously to find the existence of a statutory aggravating circumstance beyond a reasonable doubt"). Accordingly, because the trial court did not err in instructing the penalty phase jury, let alone fundamentally so, Craven is not entitled to relief on this claim.

(4) Prior Violent Felony

Craven next argues that the trial court erred by admitting statements made by Craven's prior victim in support of the prior violent felony aggravator. Specifically, over Craven's objections, the trial court allowed the prosecutor from Craven's prior first-degree murder case to testify that, during Craven's murder of his prior victim, the prior victim begged Craven to let him go, told Craven that he would leave, and asked Craven to remember that the victim had two children. Craven argued that the prior victim's statements were irrelevant and that their probative value was substantially outweighed by the danger of unfair prejudice. We review the trial court's admission of this evidence over Craven's objections for abuse of discretion, *see Franklin v. State*, 965 So. 2d 79, 96 (Fla. 2007), and find none.

As we have explained, "it is appropriate in the penalty phase of a capital trial to introduce testimony concerning the details of any prior felony conviction involving the use or threat of violence to the person rather than the bare admission of the conviction." *Rhodes v. State*, 547 So. 2d 1201, 1204 (Fla. 1989). Such testimony "assists the jury in evaluating the character of the defendant and the circumstances of the crime so that the jury can make an informed recommendation as to the appropriate sentence." *Id.*; *see also* § 921.141(1), Fla. Stat. (2017) (providing that during the ***903** penalty phase proceeding "evidence may be presented as to any matter that the court deems relevant to the nature of the crime and the character of the defendant ... regardless of its admissibility under the exclusionary rules of evidence, provided the defendant is accorded a fair opportunity to rebut any hearsay statements"). "In determining whether a trial court has abused its discretion in admitting evidence of prior violent felony convictions, this Court looks at the tenor of the witness['s] testimony and whether this testimony became a central feature of the penalty phase." *Franklin*, 965 So. 2d at 96.

****8** Below, in three lines of her six-page testimony, the prosecutor in Craven's prior first-degree murder case testified to statements made by Craven's prior victim during the murder. She did so, without editorializing, as part of a nineteen-line response to the State's request to describe the circumstances of the prior murder. During the penalty phase closing argument, the State did not repeat the prior victim's statements in arguing that the prior violent felony aggravator had been proven beyond a reasonable doubt and was entitled to great weight. Rather, the State argued that jury had heard the prior prosecutor's testimony and "the details, the nature and circumstances of [the] prior capital felony and how violent it was." On these facts, the prior victim's statements did not impermissibly become a central feature of the penalty phase. *See Cox v. State*, 819 So. 2d 705, 716-17 & n.12 (Fla. 2002) (concluding there was "no basis to reverse the ruling of the court below admitting testimonial evidence of the appellant's prior violent felonies" where the "evidence was not emphasized to the level of rendering the prior offenses a central feature of the penalty phase" and the record instead showed that each witness "simply relat[ed] [the defendant's] crimes against him or her" without "emotional displays or breakdowns").

Accordingly, because the trial court did not abuse its discretion in admitting the challenged testimony, Craven is not entitled to relief on this claim.

(5) HAC

Craven next claims that the trial court erred in finding the HAC aggravator. When reviewing claims alleging that the trial court erred in finding an aggravating factor, we do not reweigh the evidence. *McGirth v. State*, 48 So. 3d 777, 792 (Fla.

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2010). "Rather, this Court's role on appeal is to review the record to determine whether the trial court applied the correct rule of law for each aggravator and, if so, whether competent, substantial evidence exists to support its findings." *Id.* In reviewing the record for competent, substantial evidence, which "is tantamount to legally sufficient evidence," *State v. Coney*, 845 So. 2d 120, 133 (Fla. 2003), we "view the record in the light most favorable to the prevailing theory," *Wuornos v. State*, 644 So. 2d 1012, 1019 (Fla. 1994).

Regarding the HAC aggravator, we have explained

> that heinous means extremely wicked or shockingly evil; that atrocious means outrageously wicked and vile; and, that cruel means designed to inflict a high degree of pain with utter indifference to, or even enjoyment of, the suffering of others. What is intended to be included are those capital crimes where the actual commission of the capital felony was accompanied by such additional acts as to set the crime apart from the norm of capital felonies—the conscienceless or pitiless crime which is unnecessarily torturous to the victim.

State v. Dixon, 283 So. 2d 1, 9 (Fla. 1973), *superseded in part on other grounds by ch*. 74-383, § 14, *Laws of Fla*., *as stated in* ***904** *State v. Dene*, 533 So. 2d 265, 267 (Fla. 1988).

Craven first argues that the trial court applied an incorrect rule of law because it supported its finding of the HAC aggravator in part with the conclusion that Craven intended to inflict a high degree of pain upon the victim and was indifferent to the victim's suffering. Craven argues that, rather than looking to his intent, the trial court was required to limit its analysis to the means and manner used to inflict death and the immediate circumstances surrounding the death from the victim's perspective. We have explained that "[t]he HAC aggravator is proper 'only in torturous murders—those that evince extreme and outrageous depravity as exemplified by either the desire to inflict a high degree of pain or utter indifference to or enjoyment of the suffering of another.' " *Orme v. State*, 25 So. 3d 536, 551 (Fla. 2009) (quoting *Guzman v. State*, 721 So. 2d 1155, 1159 (Fla. 1998)). We have recognized that "the HAC aggravator does not necessarily focus on the intent and motivation of the defendant, but instead on the 'means and manner in which death is inflicted and the immediate circumstances surrounding the death.' " *Orme*, 25 So. 3d at 551 (quoting *Brown v. State*, 721 So. 2d 274, 277 (Fla. 1998)). And we have similarly explained that "if a victim is killed in a torturous manner, a defendant need not have the intent or desire to inflict torture, because the very torturous manner of the victim's death is evidence of a defendant's indifference." *Barnhill v. State*, 834 So. 2d 836, 850 (Fla. 2002). However, our precedent does not preclude the trial court from finding that the defendant actually intended to inflict a high degree of pain or was indifferent to the victim's suffering, where competent, substantial evidence supports it.

****9** In Craven's case, the record supports the trial court's findings regarding Craven's intent and the trial court's application of the HAC aggravator. According to the medical examiner, Craven stabbed the victim approximately thirty times in the head, throat, neck, and upper torso, twelve of which penetrated deep into the victim's skin and the rest of which were incisive wounds, and all of which would have been painful to the victim. We have, on numerous occasions, upheld HAC where the victim was repeatedly stabbed. *See, e.g.*, *Barwick v. State*, 660 So. 2d 685, 696 (Fla. 1995) (stabbed thirty-seven times), *receded from on other grounds by Topps v. State*, 865 So. 2d 1253, 1258 n.6 (Fla. 2004); *Finney v. State*, 660 So. 2d 674, 685 (Fla. 1995) (stabbed thirteen times); *Campbell v. State*, 571 So. 2d 415, 418 (Fla. 1990) (stabbed twenty-three times), *receded from on other grounds by Trease v. State*, 768 So. 2d 1050, 1055 (Fla. 2000).

Nevertheless, Craven argues that the evidence is insufficient to establish the victim's death was unnecessarily torturous because he intended to speed the victim's death by first stabbing him in the windpipe. The record, however, shows "that the victim was conscious and aware of impending death," as required to establish the HAC aggravator. *Douglas v. State*, 878 So. 2d 1246, 1261 (Fla. 2004). Craven confessed that he snuck up on the victim with a homemade knife while the victim was sleeping, that he intentionally aimed for the victim's throat to prevent him from screaming, and that the victim "instantly started screaming and kicking and clawing" and was "spitting blood everywhere." Craven further confessed, "All of my stabs were intentional aims and placed with purpose. I took my time, none were accidental ...." After he had finished stabbing the victim, Craven told law enforcement he grabbed the victim's face and watched the ***905** victim's eyes fade as he told him to

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go to sleep.

Consistent with Craven's confession, the medical examiner testified that the victim was not likely rendered unconscious by any of the wounds and that he had defensive wounds on his palms and wrists. Thus, even if the victim was asleep during the first stab, he was conscious and aware of his impending death during at least part of the murder, which the medical examiner testified was not instantaneous and could have taken from minutes to half an hour. We have upheld the application of the HAC aggravator under similar facts. *See Hall v. State*, 107 So. 3d 262, 276 (Fla. 2012) ("We have repeatedly upheld the HAC aggravating circumstance in cases where the victim has been stabbed numerous times ... and has remained conscious for at least part of the attack. ... Further, we have held that when a victim sustains defense-type wounds during the attack, it indicates that the victim did not die instantaneously and in such a circumstance HAC was proper."); *Nibert v. State*, 508 So. 2d 1, 4 (Fla. 1987) (finding HAC where the evidence established that the victim was stabbed seventeen times, had defensive wounds, and remained conscious throughout the stabbing). Competent, substantial evidence supports the trial court's finding of the HAC aggravator in Craven's case.

(6) CCP

Craven next argues that the trial court erred in finding the CCP aggravator, which applies where the evidence establishes

> (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)"; (4) "the defendant had no pretense of moral or legal justification."

****10** *Rogers*, 285 So. 3d at 887 (quoting *Williams v. State*, 37 So. 3d 187, 195 (Fla. 2010)). Craven concedes that the trial court applied the correct rule of law. However, he argues that the evidence is insufficient to support application of the CCP aggravator. We disagree.

Although Craven has claimed that he possessed the murder weapon, a homemade shank, for protection, the record establishes that Craven planned to kill Anderson with that weapon days before he carried out the murder. Prior to carrying out his plan, Craven even took the time to arrange a visit with his mother because he knew he would not be permitted to visit with her after killing Anderson. Although Craven has claimed that he was agitated because Anderson spoke of having sex with a fourteen-year-old girl, there was no evidence that Anderson's criminal history included sexual offenses, and for over a month before Craven made this claim, he expressed other reasons for killing Anderson, including his desires to start a race riot and to get on death row. Although Craven has also claimed that Anderson made racial slurs against whites a few hours before the murder after watching the movie *Selma* and that Anderson had defensive wounds on his hands, indicating provocation and resistance by the victim, the record shows that Anderson was asleep and defenseless when Craven began his attack and that Craven purposely waited to carry out his attack on Anderson until after the corrections officer had checked their cell so that his planned "assassination" of Anderson would not be interrupted. Competent, substantial evidence supports the CCP finding.

***906 (7) Proportionality**

Craven next argues that his sentence of death is disproportionate in comparison to other cases in which the sentence of death has been imposed. Our precedent requires us to conduct a comparative proportionality review of every death sentence for the purpose of "ensur[ing] uniformity of sentencing in death penalty proceedings." *Rogers*, 285 So. 3d at 891, and that the death penalty is "reserved for only the most aggravated and least mitigated of first-degree murders." *id.* at 892 (quoting *Urbin v. State*, 714 So. 2d 411, 416 (Fla. 1998)); *see also* Fla. R. App. P. 9.142(a)(5) (providing that the Court shall review proportionality on direct appeal whether or not the issue is presented by the parties). Our review does not simply involve comparing the number of aggravating and mitigating circumstances; rather, we consider the totality of the circumstances and compare each case with other cases, accepting the weight assigned by the trial court to the aggravating and mitigating circumstances. *See Newberry*, 288 So. 3d at 1049.[9]

In Craven's case, the trial court found four aggravators to which it assigned the noted weight: (1) the capital felony was committed by a person previously convicted of a felony and under sentence of imprisonment (some weight); (2) prior violent felony based on Craven's prior conviction for first-degree murder with a weapon, a capital felony (very great weight); (3) the first-degree murder of Anderson was especially heinous, atrocious, or cruel (very great weight); and (4) the first-degree murder of Anderson was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification (very great weight). The trial court found that the following "catchall" statutory mitigating circumstances were established by the greater weight of the evidence and assigned them the noted weight: (1) chaotic and dysfunctional upbringing (significant weight); (2) no evidence of biological father present in Craven's life (some weight); (3) Craven is able to maintain meaningful relationships (slight weight); (4) Craven has mental health issues (significant weight); and (5) Craven maintained appropriate courtroom behavior (little weight).

****11** "We have held that both the HAC and CCP aggravators are 'two of the most serious aggravators set out in the statutory sentencing scheme.' " *Buzia v. State*, 926 So. 2d 1203, 1216 (Fla. 2006) (quoting *Larkins v. State*, 739 So. 2d 90, 95 (Fla. 1999)). "Similarly, the prior violent felony aggravator is considered one of the weightiest aggravators." *Silvia v. State*, 60 So. 3d 959, 974 (Fla. 2011). Craven's case involves all three.

We have upheld death sentences for first-degree murders that were both less aggravated and more mitigated than Craven's murder of Anderson. *See, e.g.*, *Brant v. State*, 21 So. 3d 1276, 1283, 1287-88 (Fla. 2009) (death sentence proportionate where defendant sexually battered and strangled the victim in her home and the trial court found the statutory aggravators of HAC and during the course of a sexual battery; three statutory mitigating circumstances, including that the defendant's capacity to appreciate the criminality of his conduct or ***907** to conform his conduct to the requirements of law was substantially impaired; and numerous nonstatutory mitigating circumstances, including the defendant's borderline verbal intelligence, the defendant's family history of mental illness, that the defendant had diminished impulse control and exhibited periods of psychosis due to methamphetamine abuse, that the defendant recognized his drug dependence problem and sought help for his drug problem, that the defendant used methamphetamine before, during, and after the murder, and the defendant's diagnosis of chemical dependence and sexual obsessive disorder and symptoms of attention deficit disorder).

We have upheld the death penalty in similar prison murders. *See, e.g.*, *Robertson v. State*, 187 So. 3d 1207, 1209, 1211, 1218 (Fla. 2016) (death sentence proportionate where defendant strangled his cellmate with a garrote and the trial court found the aggravators of prior violent felony, under sentence of imprisonment for a previous felony conviction, HAC, and CCP; the statutory mitigating circumstance of extreme mental or emotional disturbance; and several nonstatutory mitigating circumstances, including a family history of alcoholism and substance abuse disorders, the defendant's own drug use and long criminal history, and childhood exposure to poverty, substance abuse, and domestic violence).

We have also found death sentences proportionate in cases where the prior violent felony aggravator was based on the defendant's commission of a prior murder. *See, e.g.*, *Lawrence v. State*, 846 So. 2d 440, 442-45, 445 n.8, 455 (Fla. 2003) (death sentence proportionate in planned execution-style murder where the trial court found the aggravators of CCP and prior violent felony, which was based in part on a prior murder; five statutory mitigating circumstances, including both statutory mental health mitigating circumstances; and several nonstatutory mitigating circumstances, including the defendant's model behavior).

Accordingly, we hold that Craven's death sentence is proportionate.

(8) Sufficiency

Finally, even though Craven does not argue that the evidence is insufficient to support his conviction for first-degree murder, "this Court independently reviews the record in death penalty cases to determine whether competent, substantial evidence supports the conviction." *Rogers*, 285 So. 3d at 891 (citing Fla. R. App. P. 9.142(a)(5)). In conducting this review, we view "the evidence in the light most favorable to the State to determine whether a rational trier of fact could have found the existence of the elements of the crime beyond a reasonable doubt." *Rodgers v. State*, 948 So. 2d 655, 674 (Fla. 2006).

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****12** The State charged Craven with the first-degree premeditated murder of Anderson, which required the State to prove: (1) Anderson is dead; (2) Anderson's death was caused by the criminal act of Craven; and (3) Anderson's death was a result of Craven's premeditated killing. *See* Fla. Std. Jury Instr. (Crim.) 7.2. At trial, it was undisputed that Anderson is deceased, and Craven admitted to killing Anderson in opening statements. The evidence presented at trial established that Craven was the only person who had access to Anderson during the time he was murdered. Blood found on Craven's person, effects, and prison cell matched Anderson's DNA profile, and corrections officers recovered the murder weapon from the location where Craven told them he had hidden it. Craven also confessed, multiple times, to planning and following through on his plan to assassinate Anderson, both verbally and in writing, ***908** including identifying his desires to start a race riot and to get on death row as motivations for the murder. The evidence showed that Craven and Anderson had a turbulent relationship, and Craven arranged a hasty visit with his mother the day prior to the murder, warning her that if she did not visit him immediately, she would not be able to see him again for several years. After the murder, Craven confessed that the killing was "planned out," and before the murder, when his mother asked him to wait to give himself some time "for whatever is on [his] mind," Craven responded that he had "made up [his] mind a long time ago." Competent, substantial evidence supports Craven's conviction for first-degree murder under the theory that the killing was premeditated.

CONCLUSION

For the foregoing reasons, we affirm Craven's conviction and sentence of death.

It is so ordered.

POLSTON, LABARGA, LAWSON, MUÑIZ, COURIEL, and GROSSHANS, JJ., concur.

CANADY, C.J., dissents with an opinion.

CANADY, C.J., dissenting.

Because I would conclude that the trial court erred in sustaining the State's objection to Craven's exercise of a peremptory strike on prospective juror Ford, I would reverse Craven's conviction and remand for a new trial. I therefore dissent.

As an initial matter, the majority has misinterpreted the trial court's ruling. The majority "analyze[s] whether the trial court erred in finding that Craven's proffered reason for the strike was a pretext," majority op. at 899, and concludes that the trial court did not abuse its discretion in finding that the proffered reason for the strike was a pretext. In so doing, the majority has analyzed and upheld a ruling that never occurred; the trial court never made a finding that Craven's reason for the strike was a pretext. Instead, after Craven provided his race-neutral explanation for attempting to strike Ford, the trial court stated, "I'm going to deny that as a race neutral basis, I don't find that that is," and disallowed the strike.

Under *Melbourne*, once the proponent of a challenged peremptory strike asserts an explanation for the strike, the trial court is first tasked with determining whether the explanation is facially race-neutral. *Melbourne v. State*, 679 So. 2d 759, 764 (Fla. 1996). Only after the court determines that the strike is facially race-neutral, and the opponent of the strike contests the genuineness of the proffered explanation, *State v. Johnson*, 295 So. 3d 710, 714 (Fla. 2020), does the court proceed to conduct a genuineness analysis to determine whether it believes the explanation is a pretext for excluding a member of a distinct racial group from the jury. *Melbourne*, 679 So. 2d at 764.

Here, the State never contested the genuineness of Craven's explanation. And the trial court—because its inquiry ended upon making the finding that the explanation was not facially race-neutral—never reached the question of whether the explanation was a pretext, never conducted a genuineness analysis of the explanation, and never ruled that Craven's proffered reason for

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the strike was a pretext. *See id.* at 764 n.7 ("If the explanation is not facially race-neutral, the inquiry is over; the strike will be denied."). The trial court denied the strike solely on the basis that it was not race neutral. It is crystal clear from the words used by the trial court—"I'm going to deny that as a race-neutral basis"—that the court was assessing the ***909** facial neutrality of Craven's explanation rather than its genuineness. *See Hayes v. State*, 93 So. 3d 427, 429 (Fla. 1st DCA 2012) ("[A]lthough a trial court is not required to follow a specific script or incant particular words in conducting the *Melbourne* analysis, we have to assume that the trial court in this case said what it meant and meant what it said in ruling that the reason for the strike was not gender-neutral." (citation omitted)).

****13** This conclusion is further supported by the fact that in denying Craven's strike, the trial court did not consider any of the relevant circumstances surrounding the strike that should be considered by a court conducting a genuineness inquiry.[10] As this Court has stated, "where the record is completely devoid of any indication that the trial court considered circumstances relevant to whether a strike was exercised for a discriminatory purpose, the reviewing court, which is confined to the cold record before it, cannot assume that a genuineness inquiry was actually conducted in order to defer to the trial court." *Hayes v. State*, 94 So. 3d 452, 463 (Fla. 2012), *disapproved of on other grounds by Johnson*, 295 So. 3d at 716. Thus, the majority has completely missed the mark by reviewing a genuineness inquiry that did not occur and upholding a phantom finding that the strike was a pretext for discrimination.

The trial court's finding that Craven's explanation for the strike was not race-neutral was clearly erroneous. Of assessing the facial validity of a party's explanation for a peremptory strike, the Supreme Court has said that this "step of this process does not demand an explanation that is persuasive, or even plausible" and "[u]nless a discriminatory intent is inherent in the [party]'s explanation, the reason offered will be deemed race neutral." *Purkett v. Elem*, 514 U.S. 765, 768, 115 S.Ct. 1769, 131 L.Ed.2d 834 (1995) (quoting *Hernandez v. New York*, 500 U.S. 352, 360, 111 S.Ct. 1859, 114 L.Ed.2d 395 (1991)). This Court has held that peremptory challenges may be used "to peremptorily strike 'persons thought to be inclined against [the proponent's] interests.' " *San Martin v. State*, 717 So. 2d 462, 467-68 (Fla. 1998) (quoting *San Martin v. State*, 705 So. 2d 1337, 1343 (Fla. 1997)). Indeed, "[p]eremptory challenges ... can be used to excuse a [prospective] juror for any reason, so long as that reason does not serve as a pretext for discrimination." *Busby v. State*, 894 So. 2d 88, 99 (Fla. 2004).

When initially asked how he felt about the death penalty, prospective juror Ford responded, "Well, if it's deserved, for instance, if he had premeditated, just did it, yes, the death penalty. But if he was under some kind of influence, alcohol, drugs, anything like that, and did it, maybe life, that's how I feel." Based on that response, Craven's asserted basis for the strike was that Ford's "original impulse was [to say] if it [the murder] was found to be premeditated, then [his verdict] would be the death penalty." Regardless of what the prosecutor or the trial judge may have thought, the factual ground for this asserted basis concerning the juror's original impulse is unequivocally supported by the record. Craven explained that he thought Ford was inclined against his interests because of that original impulse. Because there was no discriminatory intent inherent in that explanation, it was facially race-neutral. Craven having clearly and specifically presented ***910** his racially neutral explanation—an explanation undeniably based on facts established by the record—nothing in our law required that he engage in argument with the trial court concerning the matter. And the trial court's misapprehension of the relevant facts is by no means a basis for sustaining the trial court's decision. Thus, the trial court's conclusion that Craven failed to provide a race-neutral explanation for the strike was erroneous.

Because our precedents treat an erroneous determination that a proffered explanation for a peremptory strike is not facially race-neutral as per se reversible error, Craven is entitled to relief. *See Hayes*, 94 So. 3d at 461 ("Compliance with each step [of the *Melbourne* procedure] is not discretionary, and the proper remedy when the trial court fails to abide by its duty under the *Melbourne* procedure is to reverse and remand for a new trial."). I would therefore reverse Craven's conviction and sentence and remand for a new trial.

All Citations

310 So.3d 891, 2020 WL 6166336, 45 Fla. L. Weekly S269

Footnotes

1 Craven was charged with, and his jury was instructed on, first-degree premeditated murder.

[2] The penalty phase verdict form includes the jury's finding that one or more individual jurors found that one or more mitigating circumstances was established by the greater weight of the evidence.

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

[4] Although Craven also argues that the trial court confused his peremptory challenge to juror Ford with a for-cause challenge, it is clear from the record that the trial court knew a peremptory challenge was at issue and found that Craven's proffered reason for challenging juror Ford was pretextual.

[5] After the trial court ruled that Craven's proffered reasons for his proposed strike of prospective juror Holden were not race-neutral, the State withdrew its objection to Craven's peremptory strike as to Holden. However, the withdrawal occurred after the challenged ruling with respect to juror Ford.

[6] Specifically, Craven raised for-cause challenges to at least two non-black prospective jurors (Forehand and J. Sims), arguing that they were predisposed to death, even though they had been rehabilitated. The trial court denied the for-cause challenges, and Craven subsequently successfully exercised a peremptory challenge with respect to both prospective jurors.

[7] When the State questioned juror Ford, who stated that he had never thought about the death penalty before voir dire, as to how he "feel[s]" about the death penalty, juror Ford initially responded, "Well, if it's deserved, for instance, if he had premeditated, just did it, yes, the death penalty. But if he was under some kind of influence, alcohol, drugs, anything like that and did it, maybe life, that's how I feel."

[8] This case was briefed prior to our decision in *Johnson*, where we held in the context of a *Melbourne* claim that the objecting party, not the trial court, has the obligation to preserve the record. 295 So. 3d at 715. Neither party raised the issue of whether defense counsel preserved the specific challenge to the trial court's alleged noncompliance with *Melbourne* that Craven now raises—i.e., whether the trial court failed to conduct a genuineness inquiry—and we do not decide that issue.

[9] Although the State questions in its answer brief whether our comparative proportionality review violates the conformity clause of article I, section 17 of the Florida Constitution, the State does not ask us to reconsider our precedent. Moreover, the State effectively conceded the issue at oral argument by arguing that Craven's sentence is proportionate, without referencing any potential constitutional problem with conducting a comparative proportionality review of his death sentence.

[10] Under *Melbourne*, those relevant circumstances "may include—but are not limited to—the following: the racial make-up of the venire; prior strikes exercised against the same racial group; a strike based on a reason equally applicable to an unchallenged juror; or singling the juror out for special treatment." *Melbourne*, 679 So. 2d at 764 n.8.

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Supreme Court of Florida.

Daniel Jacob CRAVEN, Jr., Appellant(s)
v.
STATE of Florida, Appellee(s)

CASE NO.: SC18-1643
|
JANUARY 22, 2021

Lower Tribunal No(s).: 322016CF000451CFAXMX

Opinion

***1** Appellant's Motion for Rehearing is hereby denied.

POLSTON, LABARGA, LAWSON, MUÑIZ, COURIEL, and GROSSHANS, JJ., concur.

CANADY, C.J., dissents.

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IN THE SUPREME COURT OF FLORIDA

DANIEL JACOB CRAVEN, JR.,

Appellant,

vs.

CASE NO. **SC18-1643**
L.T. NO. 16000451 CF

STATE OF FLORIDA,

Appellee/

_____/

On Appeal from the Circuit Court of the Fourteenth Circuit in and for Jackson County, Florida

INITIAL BRIEF ON THE MERITS

ANDY THOMAS
PUBLIC DEFENDER
SECOND JUDICIAL CIRCUIT

A. VICTORIA WIGGINS
ASSISTANT PUBLIC DEFENDER
FLA. BAR NO. 0081019
LEON COUNTY COURTHOUSE
301 S. MONROE ST., SUITE 401
TALLAHASSEE, FLORIDA 32301
(850) 606-8500
Victoria.Wiggins@flpd2.com

ATTORNEY FOR APPELLANT

RECEIVED, 05/20/2019 03:52:29 PM, Clerk, Supreme Court

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STATEMENT OF THE FACTS

Jury Selection:

During jury selection, Juror Willie Ford was asked by the prosecutor about his views regarding the death penalty. Ford answered, "Well, if it's deserved, for instance, if he had premeditated, just did it, yes, the death penalty. But if he was under some kind of influence, alcohol, drugs, anything like that and did it, maybe life, that's how I feel" (R610-611). When questioned further by the prosecutor, Ford agreed he would want to hear all of the facts before making up his mind and he could envisioned situations where he could recommend the death penalty and situations he could recommend life (R611-612). When questioned by defense counsel, Ford stated the finding of premeditation would not mean he would automatically recommend the death penalty. He would need additional information such as mitigating circumstances (R616-617).

When defense counsel exercised a peremptory challenge on Juror Ford, the prosecutor asked for a race neutral reason noting for the record Ford was one of six black potential jurors where the victim was black and Craven was white. Defense counsel stated Ford's initial response that if premeditation were proven, then the sentence would be the death penalty. The trial court commented there was no cause challenge raised as to Juror Ford (R893). Defense counsel explained no

cause challenge was made because the prosecutor rehabilitated Ford when he said he would be willing to consider the evidence before deciding on his recommendation (R893). Defense counsel added that Ford's initial response that premeditation meant the death penalty concerned her, but was not sufficient for a cause challenge because of the subsequent rehabilitation; however, it was a sufficient race neutral reason for a peremptory challenge (R894). The trial court denied defense counsel's reason as a race neutral reason stating its notes did not reflect that Ford would automatically sway to the death penalty or that he did not feel he could be fair, and there was no discussion about that on the second day of voir dire (R895). Defense counsel renewed the objection to Juror Ford prior to the jury being sworn (R903). Ford served on the jury, and was not an alternate (T533).

The Guilt Phase:

Investigator Anderson, the facility investigator at Graceville Correctional Facility, testified that on June 28, 2015, John Anderson, the victim, was housed in quad 4 cell 209 which was upstairs (T26). John Anderson arrived at Graceville on August 22, 2014 to serve a life sentence (T30). John Anderson was 51 years old. Craven arrived at Graceville on April 9, 2015 . He was 28 years old. Investigator Anderson identified Craven in court (T31). At that time, Craven weighed over 300 pounds. Craven was assigned to the same cell as John Anderson. Investigator

Anderson was not aware of any problems between John Anderson and Craven. Investigator Anderson learned Craven may have made a request to be moved, but Investigator Anderson could not find such a request (T32). As part of his investigation, Investigator Anderson located 17 phone calls made by Craven in June 2015, and turned them over to Florida Department of Law Enforcement Agent Dyana Chase. John Anderson did not make any calls in June of 2015 (T33).

Ellis Rodgers testified he was the confinement sergeant at Graceville Correctional Facility in 2015 (T40). On June 28, 2015, Craven was brought Sergeant Rodgers around 12:30 p.m. by Officer West. Sergeant Rodgers asked Craven why he was in confinement. Craven answered that he had killed his "bunkie" around 2:00 am that day. Sergeant Rodgers ordered Officer West to take Craven to the shower holding cell, and to maintain constant contact on him until Florida Department of Law Enforcement arrived (T41). Sergeant Rodgers placed Craven in the shower holding cell to ensure he did not do anything to destroy the evidence on his body. Craven made several statements to Sergeant Rodgers. Sergeant Rodgers recorded the statements on an incident report. Craven said he killed his bunkie by stabbing him in the neck 12 to 13 times. Craven said he cleaned up the cell as best he could (T42). Craven's statements were voluntary and not responses to questioning (T43,45). Sergeant Rodgers described Craven's

demeanor as cool and calm (T45) . Sergeant Rodgers stated inmates can hear sounds from other cells during quiet times (T48). The cell walls are concrete with steel doors (T48-49).

Edward Summers testified he was an inmate at Graceville Correctional Facility since July of 2014, and was housed in Cell C2-113 in June of 2015 (T57). Summers knew Anderson as a friend (T58). They sat at the same table for meals and went to Bible Study together. On Saturday, June 27, 2015, they ate supper together (T59). On the weekends, inmates were allowed to be up until 1:00 a.m. because lockdown was not until 1:00 a.m. (T60). After supper, Summers and Anderson went to watch the movie, *Selma*, on one of the two televisions in the dorm (T60-61). Approximately 12 people watched the movie. The movie was interrupted by a count requiring inmates to return to their cells (T61). Summers and Anderson were able to return to watch the rest of the movie. At the end of the movie, it was time for the regular count. Summers did not hear any altercations or problems. Anderson was in a pleasant mood (T62). The last time Summers saw him, he said, "goodnight, brother, I'll see you in the morning. God bless" (T62-63). Summers' cell was downstairs and directly across from Anderson's cell (T63).

The next morning, Summers went to breakfast. Anderson was not there. Summers saw Craven, but did not speak to him. Summers was a little concern, yet did not check on Anderson (T64). Summers became concerned when did not see

Anderson at lunch. When Summers did not see Anderson at recreation that afternoon, Summers began to suspect something was wrong. Summers recalled a lot of officers went to Anderson's cell, and the quad was locked down. Summers was not aware that Craven and Anderson were having problems (T65).

Rex Dakin, an inmate at Graceville Correctional Facility, testified he knew Craven and Anderson (T66-67). On June 27, 2015, Dakin went to bed around 10:00 p.m. in his cell 212 which was three cells down from Craven's and Anderson's cell (T68-69). Around 1:30 or 2:00 a.m., Dakin heard stumbling around as if someone were fighting. He heard someone say "get off of me" and a second or two later, "help me." Dakin heard someone say "help me" a second time but he could barely hear it. Dakin told his cellmate (T70). He did not tell the correctional officers when they were making their rounds (T70,73). The sound came from the direction of Craven's cell, but Dakin could not be certain. When Dakin went to breakfast, Anderson was not there. Around 10:00 a.m., Dakin saw Craven in Anderson's chair in front of the television. Dakin was not aware of any problems between Craven and Anderson (T71,72). Dakin saw a sign in the window of Craven's cell door saying, "stomach flu. Please do not disturb." Dakin did not realize anything happened to Anderson until around 12:30 that day when the officers arrived at his cell (T72).

Officer West testified he worked at Graceville Correctional Facility on June 28, 2015 when Craven approached him requesting to speak to the captain. Officer West told Craven to speak to him first (T76). Craven said, "I'll speak to you, but you got to put me in handcuffs first" (T76-77). Officer West cuffed Craven, and asked what it was about. Craven said he killed his roommate around 2:00 or 2:30 that morning. Officer West took Craven to medical where pre-confinement was done. Officer West radioed the officers in C dorm to check Craven's cell. Officer West received a call back confirming that Anderson appeared to be deceased. Officer West took Craven to a shower holding cell in confinement, and contacted the captain. Officer West turned Craven over to Sergeant Rodgers (T77). Officer West identified Craven in court (T78). Officer West described Craven's demeanor as calm (T79).

Officer Carmen testified he worked in the C dorm at Graceville Correctional Facility in June of 2015 (T81). When the sergeant received a call around noon that an inmate had been possibly killed in cell number 209, Officer Carmen went to the cell and found John Anderson unresponsive. Anderson appeared to be deceased (T83,84,86, 87). Anderson was facing the wall. Officer Carmen called for immediate medical response for EMS to declare John Anderson deceased (T86-87).

Officer Jones testified she was working in the C dorm at Graceville Correctional Facility in June of 2015 (T92-93). She worked the day shift, and knew both Anderson and Craven. Officer Jones described Anderson as a kind of a spiritual advisor for a lot of the inmates in the quad, and did not bother anyone. He kept to himself, and was respectful. Officer Jones also described Craven as respectful and as someone who kept to himself (T93). Officer Jones was aware of problems between Anderson and Craven which arose when Anderson saw Craven's swastika tattoo on his stomach along with other tattoos. Anderson became uncomfortable (T94). Weeks prior to the murder, Craven asked Officer Jones to be moved (T94). When he told her he filed an inmate request, she advised him he had not sent it to the correct place (T94-95). Officer Jones told Craven where to send his request and what to put in the request to convey the gravity of the situation. She also gave him an inmate request form. The captain made the decisions regarding housing. Officer Jones asked Craven a few days later about the request, and he said he had not heard anything. Craven told her he was trying to work things out with Anderson (T95,100). Craven stated the problem was not serious, and he wanted to remain in that quad because that was where his friends were (T96).

On cross-examination, Officer Jones remembered Craven filled out the inmate request she gave him that same day (T97-98). Craven never stated he

wanted to remain in the same cell as Anderson; Craven did not want to be moved from that dorm (T98-99).

Kate Butler, a questioned document examiner with F.D.L.E., testified she was given a couple of original documents to examine (T126). She identified State's Exhibit 9 as the original letter from Craven dated August 5 to Jeffrey Beasley she used as a known standard. Ms. Butler compared that to a letter sent to Kim Williams of the State Attorney's Office in State's Exhibit 12 (T127). She concluded Craven wrote the letter to Kim Williams (T128).

Agent Chase of F.D.L.E. was notified by the Inspector General's office of DOC that an in-custody death occurred at Graceville Correctional Facility (T150-151). Agent Chase was told an inmate confessed to killing his cellmate, and that the crime scene was secure (T152). She interviewed the correctional officers who were on duty while waiting on the crime scene investigators (T152, 256). After the interviews, Agent Chase was escorted to the cell where she searched the lockers, and found that Craven's property was already bagged up (T153,154). She found the knife was found in the shower grate (T154) . Craven's ear was swabbed upon gaining his consent and before the interview (T155-156).

Craven was advised of his *Miranda* warnings, and agreed to talk to Agent Chase (T156). Agent Lawson and Inspector Hartwell were also present during the interview which took place in an office in the confinement area. The interview

was recorded (T157). Agent Chase identified State's Exhibit 7A as the recorded statement from Craven and 7B as the transcript of the interview (T158).

The recorded statement was published to the jury with the instruction that the recording had been redacted to eliminate irrelevant portions (T159-160, 161-186). In his statement, Craven said he made three or four requests to move out of his cell during the two and a half months of being at Graceville Correctional Facility (T164). Craven identified Anderson as his cellmate. Craven stated he was not supposed to be placed in a cell with a black guy due to Craven's tattoo of a swastika (T165). Craven explained that on the night before the murder, the black guys were "amped" after watching the movie, *Selma*, and were making racial slurs against whites. Anderson kept talking after the cell door was shut. Anderson also disliked Craven's smoking a cigarette. Anderson went to sleep around 9:00. After the correctional officers left, Craven stabbed Anderson around 2:00 a.m. (T167). Craven said he attacked Anderson in his bunk. He woke up after the first stab, and resisted by pushing and kicking Craven. Craven said he made the shank from the part of the hydraulic door (T168). Craven aimed for the throat first to prevent screaming, but Anderson was still able to scream (T169). Craven estimated he stabbed Anderson 12 or 13 times in the upper chest area (T169). Craven cleaned up the cell, and tucked Anderson in his bunk. Craven packed all his personal belongings, and then played solitaire for the rest of the night until the door opened.

He did not sustain any injuries (T170) . He placed a sign in the window saying "stomach bug, sleeping, don't disturb" (T171). Craven put the weapon in the shower drain (T172). He tied a t-shirt around the butt of the shank and a string to keep it from sliding off of his hand (T172-173). The shank had a dull edge and point like a butter knife (T173). Craven said he acquired the shank for protection, and not to commit the murder (T183).

Craven stated the murder occurred just at the spur of the moment; he had not planned on doing it (T177-178). At one point, Craven told Agent Chase he was really trying to get on death row (T180). In his statement, Craven referred to Dillon Roof who murdered African-Americans in Charleston on June 17, 2015 in explaining his intent to start a race riot (T187-188,263). Agent Chase described Craven's demeanor during the interview as calm, cooperative, polite, and kind of "matter of fact" (T190).

Agent Chase stated Anderson's criminal record including the disciplinary records from prison did not include convictions or arrest for sexual offenses (T188-189). Craven arrived at Graceville Correctional on April 9, 2015 (T249). Agent Chase asked Investigator Anderson to check for any requests or grievances to move, and she interviewed Officer Jones on June 30th (T191).

Agent Chase also reviewed the video from the quad from 8:25 p.m. on that Saturday, June 27th to 12:49 p.m. on Sunday, June 28th (T192). The video showed

Anderson returning from watching the movie to his cell around 9:00 that night for the count, and then returning to continue watching the movie afterward. He entered his cell at 10:07 p.m. (T193). The video did not show him leaving the cell after that. The video showed Craven entering the cell at 1:03 a.m. The officers did walk throughs or counts around 1:30 a.m., 2:00 a.m., 3:00 a.m., and 4:00 a.m. (T194). Craven exited his cell around 4:44 a.m. He left his cell multiple times. The last time he left the cell was around 11:35 a.m. Breakfast was served at 5:30 a.m. There was shift change at 7:00 a.m. Lunch was served at 10:15 a.m. Officer Carmen entered the cell at 12:25 p.m. (T195). Agent Chase stated that from 10:07 p.m. on Saturday night to 12:25 p.m. on Sunday, no one other than Craven entered or exited the cell (T196).

Agent Chase received a DNA card of Anderson from the Medical Examiner's Office (T198-199). She received noticed from the Inspector General's Office that Craven sent a letter to the Inspector General Jeff Beasley (T199-200). A copy of the letter was forwarded to her. The letter was titled *A Confession Letter*. After reading it, Agent Chase traveled to Florida State Prison on September 3, 2015 to interview Craven about the letter and also to return some of his materials she had taken (T200). Agent Lawson was present during the interview. Craven was Mirandized (T201). Agent Chase identified State's Exhibit 8B as the recording of Craven's statement given on September 3, 2015 (T203). The

recording was published to the jury (T204-223). In his statement, Craven was shown the copy of the letter to Inspector General Jeff Beasley, and admitted to writing it (T208). Craven said he wrote the letter to get his religious folder returned and help the investigation so he get the case into court as soon as possible to get it over with (T209). Craven was asked about the visit from his mother on the day before the incident. He called her on her way home to tell her not to worry (T210). He requested his mother to visit that day because some "stuff was about to pop off" preventing her from visiting him for a few years (T211). The phone call after her visit was to apologize for telling her that (T212). He thought he had been rude to her in an effort to keep from telling her he was planning to kill Anderson that night over the phone (T213). Craven stated he was referring to his plans to kill Anderson when he told his mother that "some stuff was about to pop of " (T214).

Craven said he took 60 pills of Zoloft at 11:00 p.m. on the night of the murder (T215). At another time, he had taken 90 Zoloft pills in one night thought to be a suicide attempt (T216). Craven said, "if I need to put it out there, you know, to help move things along, it was a hate crime; it was racially motivated" (T217). Craven said Anderson would talk of having sex with a 14 year-old girl, which made Craven extremely agitated. Craven was hoping to start a race war at Graceville Correctional Facility (T219). Craven said he would not fight "as long as

death row was on the table" but he would drag it out if the death penalty was not sought (T220-221).

Agent Chase described Craven's demeanor during the second interview as the same as the first interview except he was more personable during the second interview (T223). She identified State's Exhibit 9A as the copy of Craven's letter to Jeff Beasley (T224). Agent Chase read the letter to the jury (T226-230). She recalled Craven expressed concern about getting his property back during the first interview (T230-231). Agent Chase took Craven's documents and made copies of them to return the originals to him. In the letter, Craven said he took Zoloft on the night of June 28 when it appeared he meant the night of June 27th (T231). The letter was the first time Craven mentioned the fact he believed Anderson was a pedophile as a reason for the motive (T232,264).

As a result of the discussion of Craven's calls to his mother during the second interview, Agent Chase obtained the recordings of his calls made during June 2015 (T232). There were 17 calls. The calls to his mother included his requests for money as well as his frustrations regarding prison life (T233). They discussed a plan for her to visit at the end of June (T233). Then, the plans changed to a visit in July so she could afford to put money on his commissary account (T234). Agent Chase identified State's Exhibit 10B as a recording of a phone call made on Thursday, June 25, 2015 (T235). It was published to the jury (T236-244).

Agent Chase identified State's Exhibit 12 as a letter from Craven to Kim Williams, a prosecutor at the State Attorney's Office in Panama City (T245). Agent Chase sent the original to the crime lab to determine whether the person who wrote it also wrote the letter to Jeff Beasley. The letter to Kim Williams was one page (T247). The envelope had Craven's name as the sender (T248). Agent Chase read the letter to the jury. In the letter, Craven confessed to planning the murder of Anderson, asked to be charged with his murder, and asked to be sentenced to death (T247-248).

On cross-examination, Agent Chase stated Craven did not appear intoxicated or under the influence of any substance during the interview on June 28th, but she also admitted she did not know the effects of overdosing on Zoloft (T259). It took approximately a year from the date of the murder to bring charges against Craven (T261).

Dr. Radtke, the Medical Examiner for the Fourteenth Judicial Circuit, testified he performed the autopsy on Anderson on July 1, 2015 (T268). Anderson was 51 years old, 5'10," and weighed 216 pounds (T268). There were multiple wounds on his head, chest, and abdomen (T270). On his right side, there were wounds from his face on his cheek to his ear (T270-271). The wounds behind the right side of his head were shell incised wounds. The wounds on his upper right chest were also shell incised wounds. There were wounds on his neck and face

where the tendons and muscles holding the jaw up on the right side were cut. There were deep cuts into the windpipe. Dr. Radtke counted 12 stab wounds labeled, and a total of 30 wounds on the head and chest. There were stab wounds which probe down into the skin and then incise wounds which cut on the outside of the skin but do not go as deep as the stab wounds (T271). The wounds on the back side of his head were consistent with someone trying to sink the shank into his head prior to him moving his head (T273-274). The leopard pattern near his windpipe indicated he inhaled significant amount of blood which demonstrated he was alive during the attack. There were a fractured bone and cartilage in front of his windpipe with blood beneath the bone from aspiration (T275). He had wounds on the palms of both of his hands and one on his wrist consistent with defensive wounds (T275-276). Dr. Radtke opined the most serious wounds were the two to the windpipe causing the inability to breathe and blood to go into the lungs and the wound cutting the jugular vein causing extensive bleeding alone (T276). The wound to the windpipe would be consistent with the intent to prevent him from screaming. Dr. Radtke explained the red foam coming from Anderson's mouth indicating he had been breathing through the blood, as if he were drowning. Dr. Radtke opined the amount of blood from the bed was indicative of a struggle (T277). He stated the combination of inhaling blood as well as the loss of blood caused Anderson's death (T279,281).

He also opined that death was not immediate because there was no damage to the brain or lungs (T278). Dr. Radtke stated he saw no injuries which would have rendered Anderson unconscious (T280). The presence of defensive wounds was indicative he was alert during the attack (T280). Dr. Radtke stated the stab wounds and the incise wounds would have been quite painful (T281). Dr. Radtke opined the cause of death was the stab wounds to the head, neck, and torso. The manner of death was homicide (T278).

The Penalty Phase:

The State proffered the testimony of Candra Moore, a prosecutor from the Ninth Judicial Circuit who prosecuted Craven in 2013 for first-degree murder of Ronald Justice (T344). Moore recounted the facts of Justice's murder (T344-346). In doing so, Moore testified that Justice pled for his life saying, "just let me go. I'll leave; just let me go." Craven continued to beat Justice and handcuff him. Justice pled again saying he had two young children and he wanted to continue to live (T346). The State argued Moore's testimony was relevant to the nature and circumstances of the prior capital felony and Craven's character (T347). Defense objected to Moore's repeating Justice's words as inflammatory, seeking to evoke an emotional reaction from the jury (T348). Defense also argued Justice's words and the circumstances surrounding his murder was not similar to the words spoken

by Anderson or the surrounding circumstances of his murder to be relevant. The prejudicial value of admitting Moore's testimony regarding Justice's words significantly outweighed its probative value (T350). The trial court overruled the objection (T352).

Moore testified before the jury that she prosecuted Craven for first-degree murder in 2013 to 2014 (T361-362). The victim, Justice, was 29 years old, stood 5'10," and weighed 150 pounds. Justice was married to Jennifer Barton. He had two young children with another woman. When Justice and Barton split, Justice remained in Barton's grandmother's house (T362). Barton began a relationship with Craven, and lived with him (T362-363). The evidence presented at the Justice murder trial was that on April 6, 2011, Craven went to the residence where Justice was living. Justice answered the door. Craven asked for a duffel bag. Justice went and got a duffel bag, but Craven asked for a larger duffel bag. When Justice turned to go get another bag, Craven struck him repeatedly with an aluminum bat (T363). Moore testified Justice begged for his life, saying that he would leave and never return (T363-364). Defense's objection was overruled. Moore also stated Justice said he had two kids. Craven handcuffed Justice, and put his face into a dog bowl to drown him. Craven put his foot on the back of Justice's head, and held it down into the dog bowl. Craven continued to do so because Justice did not die immediately. Ultimately, Craven killed Justice. The jury found him guilty,

and he was sentenced to life without parole. The trial was held on August 18, 2014 and the sentencing was August 21, 2014 (T364). Moore identified State's Exhibit 11 as the judgment and sentence entered on August 21, 2014. She identified Craven in court (T365). According to the detective's report, Craven was 27 years old at the time of the murder (T366).

On behalf of the defense, Jason Tucker testified he was Craven's half-brother by a different father (T368). He was serving a prison sentence of 15 years, and had been convicted of 8 felonies (T368-369). His mother was named Donna Tucker. His mother had four brothers and three sisters. His mother's family had strained relations because there were some sexual abuse between the brothers and sisters (T369). Tucker described his mother as a drug user who neglected and beat her children (T370). Tucker and Craven had four sisters with Craven being the youngest (T370-371). Tucker said the older siblings took the brunt of the beatings. His mother had a steady line of men who came to their house. (T371). When Craven was born, only two sisters remained at home with Craven and Tucker. There was speculation that each sibling had a different father. Craven's mother went to prison several times, and each time she would lose custody of her children. His mother would regain custody of her children, and the cycle of abuse would occur again (T372). Tucker stated Craven was neglected just as the other children were (T374). The children were separated when Craven was a baby.

Craven was with the Craven family for approximately a year (T374,386). Tucker recalled Craven returning to his biological family when Craven was three or four years old for a year (T386). At that age, Craven suffered beatings from his mother or one of her boyfriends (T375). Tucker explained the abuse was constant occurring on a daily basis (T389). Tucker recalled Craven had issues with his sisters. Tucker admitted to bullying Craven and beating him. Tucker also said he would lock Craven in a closet for hours and not let him eat until he wet himself (T376). Tucker was diagnosed with bipolar disorder, PTSD, and anxiety disorder (T380). Craven was eventually adopted by Mr. and Mrs. Craven (T387).

Tucker stated, based on his experience being incarcerated in at least 25 correctional facilities, the prisons which have the quad system have the most violence because there are no cameras in the individual cells (T382, 385).

Dr. Julie Harper, a psychologist, testified she reviewed Craven's academic records, medical records from DOC, records from Vocational Rehabilitation, emergency admission for substance impaired person, an EEG report, records from Dr. Deluca, 2003 and 2013 records from Florida Hospital, psychiatric records from Aspire Health Partners, records from Wainsborough Family Clinic, and her two previous reports (T397-398). Dr. Harper met with Craven twice for a total of 5 hours (T398). She noted Craven suffered depression due to present circumstances, and had a personal history of trauma and abuse (T399). Although

Craven had been diagnosed with bipolar mood disorder NOS, Dr. Harper did not agree with that diagnosis, but believed he suffered from PTSD which is evident from his entire record (T400). The foster care documents showed Craven's mother was investigated for 13 types of abuse over a lengthy period of time with multiple open cases involving neglect (T404). Craven's mother's family had a history of pathological interactions with changing allegiances which reduced the children's ability to have a safe harbor. Craven was born into that environment, and remained there a few months. He was placed in foster care as an infant (T405).

Dr. Harper stated infants remember things such as the face of a potential caregiver as they prepare to attach to that person (T406-407). They also remember the scents of the caregivers. Infants are also learning what to expect from their caregivers in meeting their needs when they cry which is essential in developing internal understandings of whether they are cared for (T407). When infants experience a change in caregivers, it causes a disruption in attachment creating an unusual internal pattern inside the baby. During his first few months, Craven did not have a stable caregiver because his mother was absent and had different siblings and uncles who were not doing what they were supposed to causing a disruption in attachment. Craven was put in foster care as an infant, but was not with the Craven family until later (T408). During his preschool years, he was returned to his mother (T409). Since early childhood is when social relationship

building is learned and the method of internalizing rules to live by, the instability in Craven's early childhood was too unpredictable for him to learn what responses to expect from his behavior (T410-411). As a result, Craven suffered an attachment disorder where he would injure himself when he was upset to prevent himself from injuring others (T412). The attachment disorder affected how he perceives future relationships (T413). The memories of past trauma with his family would come to his mind when he interacted with people (T414).

Craven spoke to Dr. Harper about his foster care years and the poor relationship in his family. He also spoke about his mother's mental health problems and the rages which ensued (T415). Craven felt as though he could not trust anyone because of the abuse (T415-416). Even though the Cravens loved him, it was evident from his records they did not have experience raising a child with mental health issues (T416). Craven displayed hyperactivity at an early age for which he received medication. His adoptive mother discontinued it soon thereafter. Craven was placed in inpatient setting for self-injury at age 11 (T417). Dr. Harper interpreted that event as evidence of Craven's inability to bond with his adoptive mother, and retreated inward injuring himself as a result of his inability to cope with stress (T417-418). Craven had two more inpatient stays as an adolescent and at least one as a young adult at Florida Hospital . He was placed in the crisis stabilization unit in 2013 or 2014 (T418). Craven had an EEG when he was 9

years old which showed unusual wave activity symptomatic of either epilepsy of a personality disorder with hyperactivity (T419). The records from either Vocational Rehabilitation or family practice contain a history from Craven's mother concerning his seizures. Records from DOC contained some indication of a seizure disorder (T420).

Dr. Harper reviewed the letters entered into evidence where she saw evidence he had internalized a code of conduct to protect others who could not fend for themselves (T420-421). This code of conduct derived from his own past trauma of being victimized (T421). That code of conduct prohibited causing harm to women and forms of sexual abuse. Craven assumed that moral responsibility when he saw others would not (T422). His moral code of conduct was different from that of others (T423). Craven had difficulty explaining his history because he repressed it (T456).

Dr. Harper diagnosed Craven with borderline personality disorder mixed with major depressive disorder an anxiety disorder (T428). Craven kept a journal where his writing had the single focus of hating pedophiles and a desire to harm or kill them (T428-429). Dr. Harper saw pedophilia as a trigger for Craven (T429). If Anderson had expressed pedophiliac tendencies, then that would have been a definite trigger for Craven to act to solve the problem according to the moral code he internalized (T430).

On cross-examination, Dr. Harper acknowledged Craven did not mention Anderson being a pedophile during his initial interview (T431). Dr. Harper viewed Craven's explanation of wanting to cause a race riot as the reason behind Anderson's murder as a cover story because Craven was embarrassed by experiencing triggers from his own past trauma (T446).

As a rebuttal witness, Dr. Gary Prichard, a psychologist, testified he evaluated Craven (T465). Dr. Prichard reviewed records from F.D.L.E., Inspector General's Office, Florida Hospital, Apopka Family Practice, Dr. Deluca, Dr. Gutman, Eastpoint Mental Health in North Carolina, and from DOC. He met with Craven for three hours the day before testifying (T466). Dr. Prichard stated the records showed Craven was removed from his mother when he was 11 months old, returned to his mother at age 3 until he was 8 years old. Then, he went to live with the Cravens permanently (T467). Dr. Prichard stated the Cravens gave a strong, supportive, consistent, and loving environment. Craven was the only child in the home and both adoptive were well educated with good jobs (T468). Dr. Prichard diagnosed Craven with personality disorder with narcissistic and antisocial personality features (T469). Dr. Prichard did not believe Craven had a neurochemical disorder such as bipolar because medication did not seem to improve his condition (T469-470). Dr. Prichard believed Craven had significant mental health intervention from 8 years old to adulthood (T471). Although the

records showed Craven had a learning disability in his youth, an IQ test given in prison showed his IQ to be 115 which was considered to be high average (T471-472).

Dr. Prichard also reviewed Craven's journal. Dr. Prichard read a portion from an entry dated January 5, 2015 where Craven wrote, "I don't have to think here; by that, I mean food, clothes, responsibility really, a few classes but that's it and if you're not in the program, you don't even have that. Prison is a retirement home" (T473). Dr. Prichard stated Craven did not believe his environment caused his behaviors as evident from his journal entry from January 10, 2015: "I am also still amazed how stupid most people are. Well, maybe not stupid, but let's say uneducated; their own fault. Your surroundings do not make your environment. Might not be ideal, but if you want to work, you can. If you want to learn, you will; people and their f—excuses" (T474). Another theme in his journal was his animosity against people in general, and not just pedophiles. He wrote, "as usual, I f—can't stand people, even my own." While Dr. Prichard agreed Craven expressed animosity toward pedophiles, he also expressed animosity toward other populations which included blacks, some whites, other inmates, and officers (T475-476, 486,487). Craven's animosity toward others is consistent with an antisocial personality disorder (T476). Dr. Prichard disagreed with Dr. Harper's testimony that Craven did not intend to harm people and read aloud from Craven's

letter dated January 17, 2018 where Craven wrote of having fantasies about physical violence and murder with little provocation (T477). Dr. Prichard opined the prior murder, the instant crime, and the homicidal notations throughout Craven's medical records ran counter to the conclusion Craven believed he needed to protect those who needed protecting (T477-478). Dr. Prichard noted Craven saw himself as a hero for killing Anderson because Craven saved a child from a potential pedophile. Dr. Prichard saw such reasoning as distorted because Craven believed he had the power to decide whether someone was bad or good, and such thinking was a part of narcissism and antisocial personality disorder (T479,489).

On cross-examination, Dr. Prichard acknowledged Craven's letter dated January 17, 2018 was written to the treating psychologist at Florida State Prison for the purpose of giving some background information in the interest of receiving treatment (T482). Dr. Prichard acknowledged also that although Craven received mental health treatment when he lived with the Craven family, there was no guarantee the treatment would be successful (T483). Craven was occasionally placed in foster care on the weekends before he was adopted. The adoption was open allowing Craven to still be exposed to his biological family (T484). Initially one of his sisters went to the Cravens with him, but did not remain in that home due to conflict (T485). Dr. Prichard acknowledged Craven desire to protect women and children (T487).