

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

**LOUIS B. GASKIN,
PETITIONER,**

VS.

**STATE OF FLORIDA,
RESPONDENT.**

On Petition for a Writ of Certiorari to the Supreme Court of Florida

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**THIS IS A CAPITAL CASE
WITH AN EXECUTION SCHEDULED FOR
WEDNESDAY, APRIL 12, 2023, AT 6:00 PM**

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No. _____

IN THE SUPREME COURT OF THE UNITED STATES

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On Petition for a Writ of Certiorari to the Supreme Court of Florida

APPENDIX TO THE PETITION FOR WRIT OF CERTIORARI

**THIS IS A CAPITAL CASE
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APPENDIX A

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IN THE CIRCUIT COURT
OF THE SEVENTH JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

**EXECUTION SCHEDULED FOR APRIL 12, 2023, at
6:00 p.m.**

STATE OF FLORIDA,

Plaintiff,

v.

CASE NO. 1990 CF 0001
ACTIVE WARRANT CAPITAL CASE

LOUIS GASKIN

Defendant.

/

**ORDER DENYING DEFENDANT'S THIRD SUCCESSIVE MOTION TO VACATE JUDGMENT OF
CONVICTION AND SENTENCES OF DEATH AFTER DEATH WARRANT IS SIGNED**

THIS CAUSE comes before the Court on the Defendant's "Third Successive Motion to Vacate Judgment of Conviction and Sentences of Death After Death Warrant is Signed" (hereinafter "Motion") raising four claims and includes a request for an evidentiary hearing pursuant to Florida Rule of Criminal Procedure 3.851. Pursuant to the Florida Supreme Court's Scheduling Order entered March 13, 2023, and this Court's own scheduling order of March 15, 2023, this Court received the filings from the parties and held a Case Management Conference, a discovery hearing and a final hearing. The Court having considered all the pleadings, heard the arguments of counsel, and read the many transcripts of the proceedings, hereby finds as follows:

PROCEDURAL HISTORY

The facts of the case were summarized by the Florida Supreme Court in *Gaskin v. State*, 591 So. 2d 917 (Fla. 1991), as follows:

[On] December 20, 1989, [Defendant] drove from Bunnell to Palm Coast and spotted a light in the house of the victims, Robert and Georgette Sturmels. [Defendant] parked his car in the woods and, with a loaded gun, approached the house. Through a window he saw the Sturmels sitting in their den. After circling the house a number of times, [Defendant] shot Mr. Sturmels twice through the window. As Mrs. Sturmels rose to leave the room, [Defendant] shot her and then shot Mr. Sturmels a third time. Mrs. Sturmels crawled into the hallway, and [Defendant] pursued her around the house until he saw her through the door and shot her again. [Defendant] then pulled out a screen, broke the window, and entered the home. He fired one more bullet into each of the Sturmels' heads and covered the bodies with blankets. [Defendant] then went through the house taking lamps, video cassette recorders, some cash, and jewelry.

[Defendant] then proceeded to the home of Joseph and Mary Rector, whom he again spied through a window sitting in their den. While [Defendant] cut their phone lines, the Rectors went to bed and turned out the lights. In an effort to rouse Mr. Rector, [Defendant] threw a log and some rocks at the house. When Mr. Rector rose to investigate, [Defendant] shot him from outside the house. The Rectors managed to get to their car and drive to the hospital in spite of additional shots fired at their car as they sped away. [Defendant] then burglarized the house.

On March 27, 1990, a second indictment was filed against Defendant charging him with the following: Count I, first degree murder; Count II, first degree murder; Count III, first degree murder; Count IV, first degree murder; Count V, armed robbery; Count VI, burglary of a dwelling; Count VII, attempted first degree murder; Count VIII, attempted first degree murder; Count IX, armed robbery; and Count X, burglary of a dwelling. Defendant went to trial and on June 15, 1990, and, at the conclusion of the guilt phase of the trial, the jury entered the following verdict: Count I, guilty of first degree murder; Count II, guilty of first degree murder; Count III, guilty of first degree murder; Count IV, guilty of first degree murder; Count V, guilty of armed robbery; Count VI, guilty of burglary of a dwelling; Count VII, guilty of attempted first degree murder;

Count VIII, not guilty; Count IX, guilty of armed robbery; and Count X, guilty of burglary of a dwelling. On June 19, 1990, Defendant was sentenced to death.

Defendant filed a direct appeal of his judgment and sentence, where Defendant made the following relevant claim: Point VI: Defendant's Four Adjudications for Four Counts of First-Degree Murder Where Only Two People Were Killed Violate Double Jeopardy. Defendant's convictions and sentences of death were affirmed but were remanded in part to vacate two adjudications for first degree murder based upon the double jeopardy argument in Point VI. *See Gaskin v. State*, 591 So. 2d 917 (Fla. 1991). Defendant then filed a petition for writ of certiorari at the United States Supreme Court, where the United States Supreme Court granted Defendant's petition, which resulted in the Florida Supreme Court's ruling being vacated with a remand to the Florida Supreme Court. *See Gaskin v. Florida*, 505 U.S. 1216 (1992). The Florida Supreme Court upheld its previous ruling after providing additional reasoning. *See Gaskin v. State*, 615 So. 2d 679 (Fla. 1993), cert denied, *Gaskin v. Florida*, 510 U.S. 925 (1993) (hereinafter "Gaskin I").

On March 21, 1995, Defendant filed his Initial Motion for Post-Conviction Relief (hereinafter "Initial Motion"), which included the following relevant claims: [Claim III] "Mr. Gaskin was Denied the Effective Assistance of Counsel at Penalty Phase, in Violation of the Sixth, Eighth, and Fourteenth Amendments; Trial Counsel was Rendered Ineffective by the Trial Court's and State's Actions; Trial Counsel Failed to Adequately Investigate and Prepare Additional Mitigating Evidence and Failed to Adequately Challenge the State's Case; Counsel Failed to Adequately Object to Eighth Amendment Error; Counsel's Performance was Deficient, and as a Result, The Death Sentence is Unreliable;" [Count V:] "the Defendant was Denied the Effective Assistance of Counsel Pretrial and at the Guilt/Innocence Phase of his Trial, in Violation of the

Sixth, Eighth, and Fourteenth Amendments; The Court and State Rendered Counsel Ineffective; and Counsel's Performance was Deficient and as a Result, Mr. Gaskin's Convictions and Death Sentence are Unreliable. The Court denied Defendant's Initial Motion on January 17, 1997. Defendant appealed the denial of his Initial Motion, which was affirmed in part and remanded in part. *See Gaskin v. State*, 737 So. 2d 509 (Fla. 1999) (hereinafter "Gaskin II"). The case was remanded back to the Trial Court to conduct an evidentiary hearing on whether trial counsel was ineffective. After receiving evidence and testimony on the issue, the Court denied the remaining claims of Defendant's Initial Motion on August 23, 2000. Defendant filed an appeal of the Court's denial of Defendant's remaining claims and that denial was affirmed by the Florida Supreme Court. *See Gaskin v. State*, 822 So. 2d 1243 (Fla. 2002) (hereinafter "Gaskin III").

On May 6, 2015, Defendant filed his First Successive Motion for Post-conviction Relief (hereinafter "First Successive Motion"), which was denied by the Court on August 6, 2015. Defendant filed an appeal of the denial of his First Successive Motion, which was affirmed. *See Gaskin v. State*, 218 So. 3d 399 (Fla. 2017) (hereinafter "Gaskin IV"). On January 10, 2017, Defendant filed his Second Successive Motion for Post-Conviction Relief (hereinafter "Second Successive Motion"), which contained the following claim: "In Light of Hurst, Ring, and Apprendi, Mr. Gaskin's Death Sentences Violate the Fifth, Sixth, Eighth, and Fourteenth Amendments of the United States Constitution, the Corresponding Provisions of the Florida Constitution and Article I, Section 15 and 16 of the Florida Constitution." The Court heard argument on the Motion and denied Defendant's Second Successive Motion on October 12, 2017 finding that the defendant is not entitled to retroactive relief under *Hurst v. State*, 202 So.3d 40 (Fla. 2016). On August 15, 2017, Defendant filed a petition for writ of certiorari with the United States Supreme Court,

which was denied. *See Gaskin v. Florida*, 138 S.Ct. 471 (2017). Additionally, Defendant filed an appeal of the denial of his Second Successive Motion, which was affirmed. *See Gaskin v. State*, 237 So. 3d 928 (Fla. 2018) (hereinafter “*Gaskin V*”). On July 1, 2019, and May 6, 2020, Defendant filed identical All Writs pleadings in the Florida Supreme Court, which were dismissed. *See Gaskin v. State*, 2020 WL 57987 (Fla. January 6, 2020); *Gaskin v. State*, 2020 WL 2467112 (Fla. May 13, 2020).

On March 13, 2023, Governor Ron DeSantis signed a death warrant for Defendant and the Florida Supreme Court entered an order directing this Court to expedite proceedings related to Defendant, and outlining the schedule that must be followed. On March 15, 2023, the Court entered an agreed Scheduling Order and on March 16, 2023, the Court held a Case Management Conference. After the CMC, the Court issued a case management order. On March 17, 2023, the Court held a hearing on pending discovery, where arguments were raised by the parties with respect to Defendant’s entitlement to numerous additional public records demands. Later that same day, the Court entered an order denying Defendant’s additional public records demands. On March 18, 2023, Defendant submitted the instant Motion. On March 19, 2023, the Office of the Attorney General submitted their reply to Defendant’s instant Motion. On March 20, 2023, the Court held the *Huff* hearing.

In the instant motion, Defendant raises the four grounds discussed below. At the *Huff* hearing on March 20, 2023, Defendant acknowledged that Grounds II, III, and IV are purely legal questions that can be resolved without further testimony. Regarding Ground I, the Court finds that there is no need for an evidentiary hearing. Additionally, Defendant concedes that there has been no newly discovered evidence applicable to any instant ground.

STATEMENT OF LAW

This Court may summarily deny a postconviction claim that is conclusively rebutted by the existing record. Fla. R. Crim. P. 3.851(f)(5)(B). Additionally, the court may summarily deny purely legal claims that are meritless under controlling precedent. *Mann v. State*, 112 So. 3d 1158, 1162-63 (Fla. 2013).

DEFENDANT'S THIRD SUCCESSIVE MOTION FOR POST-CONVICTION RELIEF

GROUND I

DEFENDANT ASSERTS THAT HIS DEATH SENTENCE VIOLATES HIS CONSTITUTIONAL RIGHTS DUE TO TRIAL COUNSEL'S FAILURE TO PRESENT MEANINGFUL MITIGATION, WHICH WOULD HAVE RESULTED IN A MAJORITY LIFE RECOMMENDATION.

Defendant supports the instant claim by stating that if mental health mitigation would have been presented during the penalty phase that Defendant would not have been sentenced to death. The Court finds that the instant claim has been previously raised in Claims III and V of Defendant's Initial Motion. See Procedural History above. The Court held an evidentiary hearing on Defendant's Claims III and V of Defendant's Initial Motion to determine whether trial counsel was ineffective. At the evidentiary hearing, it was revealed that Dr. Krop was hired to offer opinions on the defendant's mental health history. Although Dr. Krop could testify regarding the defendant's mental illness, he would also have had to testify regarding Defendant's past criminal conduct, prior murder or attempted murders, sexual deviancy, and lack of remorse. Consequently, trial counsel made a tactical decision not to call Dr. Krop as a expert witness. The Trial Court held that the defendant failed to establish that trial counsel was ineffective. The Trial Court's evidentiary ruling was appealed and specifically the court finds that Defendant's instant claim was previously denied and that denial was upheld on appeal by the Florida Supreme Court,

see, *Gaskin III*, 822 So.2d 1243, 1246 (Fla. 2002); the United States District Court, and the Eleventh Circuit Court of Appeals, see, *Gaskin v. McDonough*, 3:03-cv-547-J-20 (M.D. Fla. 2003) and *Gaskin v. Sec'y, Dept. of Corr.*, 494 F.3d 997 (11th Cir. 2007). As a result, the Court finds that Defendant's instant ground both lacks merit and is procedurally barred. Therefore, **GROUND I IS DENIED.**

GROUND II

DEFENDANT AVAILS THAT DEFENDANT'S DEATH SENTENCES AND DEATH WARRANT VIOLATE DEFENDANT'S CONSTITUTIONAL RIGHTS BECAUSE THE JURY WAS NOT UNANIMOUS IN FINDING APPLICABLE AGGRAVATORS AND IN RECOMMENDING DEATH.

The Court finds that the instant claim has been previously raised and denied in Defendant's Second Successive Motion. The Court denied Defendant's Motion on the basis of *Hurst v. State*, 202 So.3d 40 (Fla. 2016). In that case, the Court held that defendants whose sentences became final pre-*Ring v. Arizona*, 536 U.S. 584 (2002) are not entitled to relief via a retroactive application of *Hurst v. Florida* and its Florida progeny. Because the defendant's Judgment and Sentence became final in 1993, long before *Ring v. Arizona* was issued in 2002, the defendant is not entitled to retroactive *Hurst* relief. *Assay v. State*, 210 So.3d 1 (Fla. 2016). The Court's denial of Defendant's Second Successive Motion was upheld by the Supreme Court. See *Gaskin V*, 237 So. 3d 928 (Fla. 2018), cert. denied, 139 S.Ct. 327. As a result, this Court finds that Defendant's instant ground both lacks merit and is procedurally barred. Therefore, **GROUND II IS DENIED.**

GROUND III

DEFENDANT AVERS THAT THE LENGTHY DELAY BETWEEN DEFENDANT'S CLEMENCY PROCEEDINGS AND THE DENIAL OF CLEMENCY WITHOUT ANY UPDATED PROCEEDINGS

VIOLATED DEFENDANT'S CONSTITUTIONAL RIGHTS.

Defendant asserts a claim that his due process rights regarding clemency proceedings were violated when he was denied the opportunity to provide additional information to support clemency. However, the minimal due process rights regarding clemency, established by the United States Supreme Court in *Ohio Adult Parole Auth. v. Woodard*, 523 U.S. 272, 280-81 (1998), do not apply to clemency updates. In fact, there is no constitutional right to clemency. *Bowles v. DeSantis*, 934 F.3d 1230, 1242 (11th Cir. 2019) (citing *Herrera v. Collins*, 506 U.S. 390, 414 (1993) (noting the Constitution “does not require the States to enact a clemency mechanism”). There is no specific procedure mandated in the clemency process. *Johnston v. State*, 27 So. 3d 11, 25-26 (Fla. 2010). The Florida Supreme Court has rejected arguments that the first clemency hearing was inadequate because it was conducted before the capital defendant’s “full life history and mental illness history were developed.” *Id.*; *Grossman v. State*, 29 So. 3d 1034, 1044 (Fla. 2010). Discussing *Woodward*, the Florida Supreme Court noted that none of the opinions “required any specific procedures or criteria to guide the executives signing of warrants for death sentenced inmates.” *Marek v. State*, 14 So 3d 985, 998 (Fla. 2009) (denying a due process challenge to Florida’s clemency proceeding where the Governor reviewed the case “without input from Marek”).

The Florida Supreme Court has “rejected the argument that a long-time lapse between a defendant's clemency proceeding and the signing of his death warrant renders the clemency process inadequate or entitles the defendant to a second proceeding.” *Pardo v. State*, 108 So. 3d 558, 568 (Fla. 2012). Finally, clemency is an executive function and therefore, in accordance with the doctrine of separation of powers, courts generally will not second-guess the executive's

determination that clemency is not warranted. *Id.* (citing *Johnston*). As a result, the Court finds that Defendant's instant claim lacks merit. Therefore, **GROUND III IS DENIED.**

Alternatively, the Court finds that Defendant's instant ground is successive. Defendant fails to provide good cause as to why he failed to assert the instant ground in any of his prior motions for post-conviction relief. As a result, the Court finds that Defendant is procedurally barred from filing this claim. *See Fla. R. Crim. P. 3.851(e)(2)*. Therefore, **GROUND III REMAINS DENIED** in the alternative.

GROUND IV

DEFENDANT ALLEGES THAT DEFENDANT'S ALMOST THIRTY-THREE YEARS OF LIVING ON DEATH ROW IN NEAR-TOTAL SOLITARY CONFINEMENT VIOLATES HIS CONSTITUTIONAL RIGHTS.

Defendant raises a claim that the 33 years he has spent on death row, in what he terms "solitary" confinement, violates the Eighth Amendment's prohibition on cruel and unusual punishment and requires this Court to vacate his capital sentence. Such claims are often referred to as *Lackey* claims because they stem from a dissenting opinion from the denial of certiorari in *Lackey v. Texas*, 514 U.S. 1045 (1995). The Florida Supreme Court has consistently rejected *Lackey* claims including most recently in *Long v. State*, 271 So. 3d 938, 946 (Fla. 2019).

The Florida Supreme Court has also observed that "no federal or state court has accepted the argument that a prolonged stay on death row constitutes cruel and unusual punishment." *Booker v. State*, 969 So. 2d 186, 200 (Fla. 2007); *Knight v. State*, 746 So. 2d 423, 437 (Fla. 1998). Furthermore, the appropriate remedy for a claim that prolonged solitary confinement violates the Eighth Amendment is to challenge the condition of the confinement, not to vacate a death sentence. As a result, the Court finds that Defendant's instant claim is meritless as a matter of law. Therefore, **GROUND IV IS DENIED.**

Alternatively, the Court finds that Defendant's instant ground is successive. Defendant fails to provide good cause as to why he failed to assert the instant ground in any of his prior motions for post-conviction relief. As a result, the Court finds that Defendant is procedurally barred from filing this claim. *See* Fla. R. Crim. P. 3.851(e)(2). Therefore, **GROUND IV REMAINS DENIED** in the alternative.

RULING

Accordingly, it is **ORDERED and ADJUDGED** that Defendant's Instant Motion is **DENIED**.

DONE AND ORDERED in Chambers, in Flagler County, Bunnell, Florida.

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TERENCE R. PERKINS
e-Signed COURT JUDGE 3:48 PM 1990 CF 000001

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On Petition for a Writ of Certiorari to the Supreme Court of Florida

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APPENDIX B

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Supreme Court of Florida

No. SC2023-0415

LOUIS B. GASKIN,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

No. SC2023-0440

LOUIS B. GASKIN,
Petitioner,

vs.

RICKY D. DIXON, etc.,
Respondent.

April 6, 2023

PER CURIAM.

Louis B. Gaskin, a prisoner under sentences of death and an active death warrant, appeals the circuit court's denial of his third successive motion for postconviction relief. He also petitions this

Court for a writ of habeas corpus, moves for a stay of execution, and requests oral argument. We have jurisdiction. *See* art. V, §§ 3(b)(1), (9), Fla. Const. As we explain below, we affirm the summary denial of Gaskin's postconviction motion, and we deny his habeas petition, motion for stay of execution, and request for oral argument.

BACKGROUND

The following facts were set forth in this Court's opinion on direct appeal:

The convictions arise from events occurring on the night of December 20, 1989, when Gaskin drove from Bunnell to Palm Coast and spotted a light in the house of the victims, Robert and Georgette Sturmels. Gaskin parked his car in the woods and, with a loaded gun, approached the house. Through a window he saw the Sturmels[es] sitting in their den. After circling the house a number of times, Gaskin shot Mr. Sturmels twice through the window. As Mrs. Sturmels rose to leave the room, Gaskin shot her and then shot Mr. Sturmels a third time. Mrs. Sturmels crawled into the hallway, and Gaskin pursued her around the house until he saw her through the door and shot her again. Gaskin then pulled out a screen, broke the window, and entered the home. He fired one more bullet into each of the Sturmels[es]' heads and covered the bodies with blankets. Gaskin then went through the house taking lamps, video cassette recorders, some cash, and jewelry.

Gaskin then proceeded to the home of Joseph and Mary Rector, whom he again spied through a window sitting in their den. While Gaskin cut their phone lines,

the Rectors went to bed and turned out the lights. In an effort to roust Mr. Rector, Gaskin threw a log and some rocks at the house. When Mr. Rector rose to investigate, Gaskin shot him from outside the house. The Rectors managed to get to their car and drive to the hospital in spite of additional shots fired at their car as they sped away. Gaskin then burglarized the house.

Gaskin's involvement in the shootings was brought to the attention of the authorities by Alfonso Golden, cousin of Gaskin's girlfriend. The night of the murders, Gaskin had appeared at Golden's home and asked to leave some "Christmas presents." Gaskin told Golden that he had "jacked" the presents and left the victims "stiff." Golden learned of the robberies and murders after watching the news and called the authorities to report what he knew. The property that had been left with Golden was subsequently identified as belonging to the Sturmfel[s]es.

Gaskin was arrested on December 30, and a search of Gaskin's home produced more of the stolen items. After signing a rights-waiver form, Gaskin confessed to the crimes and directed the authorities to further evidence of the crime in a nearby canal.

Gaskin v. State, 591 So. 2d 917, 918 (Fla. 1991).

After a jury trial, Gaskin was convicted of nine of the ten counts for which he was indicted. As to Mr. and Mrs. Sturmfel[s], Gaskin was convicted of two counts of first-degree premeditated murder, two counts of felony murder, one count of armed robbery, and one count of burglary. *Id.* As to Mr. and Mrs. Rector, Gaskin was convicted of one count for the attempted first-degree murder of Joseph Rector, one count of armed robbery, and one count of

burglary. *Id.* The jury acquitted Gaskin of the attempted first-degree murder of Mary Rector. *Id.*

During the penalty phase, the State presented evidence in the form of a ballistics demonstration, “firing various types of bullets from the rifle used in the murders to demonstrate that the ammunition Gaskin chose to use in the murders supports a finding that the murders were heinous, atrocious, or cruel.” *Id.* at 918-19. The defense presented penalty phase testimony of “Janet Morris, Gaskin’s cousin, who testified that she and Gaskin were raised by their great-grandparents, who were very strict, and that Gaskin never gave anyone any trouble during his formative years.” *Id.* at 919.

The jury recommended that Gaskin be sentenced to death for the Sturmfelses’ murders by votes of eight to four. *Id.* For additional consideration in sentencing, the trial court also received “a certified judgment and sentence for an unrelated burglary, a copy of Gaskin’s statement, and a copy of a psychiatric report.” *Id.*

The trial court found three aggravating factors as to both murders: (1) the murder was cold, calculated, and premeditated, without any pretense of moral or legal justification, (2) Gaskin was

previously convicted of another capital offense or of a felony involving the use or threat of violence (prior violent felony based on the contemporaneous murders of the Sturmfelses and the other felony convictions relating to the Sturmfelses and the Rectors), and (3) the murders were committed while Gaskin was engaged in the commission of a robbery or burglary. *Id.* A fourth aggravating factor, that the murder was especially wicked, evil, atrocious, or cruel, was found as to victim Georgette Sturmfels. *Id.*

The trial court found as mitigating circumstances that (1) the murders were committed while Gaskin was under extreme mental or emotional disturbance, and (2) Gaskin suffered a deprived childhood. *Id.*

Gaskin challenged his convictions and sentences on direct appeal. Because he was improperly convicted of and sentenced for four counts of first-degree murder—premeditated and felony murder as to each of the Sturmfelses—this Court affirmed two of the first-degree murder convictions and sentences, remanded to the trial court to vacate the other two, and affirmed the remaining convictions and sentences. *Id.* at 922. Gaskin then successfully petitioned the United States Supreme Court for review, which, due

to the unconstitutionally vague jury instruction on the “especially wicked, evil, atrocious, or cruel” aggravating factor, remanded the case to this Court for reconsideration in light of *Espinosa v. Florida*, 505 U.S. 1079 (1992). See *Gaskin v. Florida*, 505 U.S. 1216 (1992). Upon remand, this Court held that Gaskin did not preserve the issue but that even if it had been preserved, the error was harmless as to the murder of Georgette Sturmels given the other aggravating factors in the case. See *Gaskin v. State*, 615 So. 2d 679, 680 (Fla. 1993).

Since that time, Gaskin has unsuccessfully challenged his convictions and sentences in state and federal court. See *Gaskin v. State*, 737 So. 2d 509 (Fla. 1999) (initial postconviction appeal affirming the denial of relief on certain claims and remanding for an evidentiary hearing on ineffective assistance of counsel claims); *Gaskin v. State*, 822 So. 2d 1243 (Fla. 2002) (initial postconviction appeal upon remand, affirming the denial of relief on Gaskin’s ineffective assistance of counsel claims); *Gaskin v. State*, 218 So. 3d 399 (Fla. 2017) (opinion affirming the denial of first successive postconviction motion); *Gaskin v. State*, 237 So. 3d 928 (Fla. 2018) (opinion affirming the denial of second successive postconviction

motion); *Gaskin v. State*, 2020 WL 57987 (Fla. Jan. 6, 2020) (order dismissing pro se all writs petition); *Gaskin v. State*, 2020 WL 2467112 (Fla. May 13, 2020) (order dismissing pro se all writs petition); *Gaskin v. Sec'y, Dept. of Corr.*, 494 F.3d 997 (11th Cir. 2007) (opinion affirming the denial of federal habeas petition).

Governor Ron DeSantis signed Gaskin's death warrant on March 13, 2023. Pursuant to Florida Rule of Criminal Procedure 3.851, Gaskin filed a third successive motion for postconviction relief and argued the following claims: (1) Gaskin's death sentences violate his constitutional rights because his jury was never presented with mitigation that would have resulted in recommendations of life imprisonment; (2) Gaskin's constitutional rights were violated because the jury was not unanimous in finding applicable aggravating circumstances and in recommending death, and this Court's decision on the partial retroactivity of *Hurst*¹ was arbitrary and capricious; (3) the delay between Gaskin's clemency proceedings and the denial of clemency without any updated proceedings violated Gaskin's constitutional rights; and (4) it is

1. *Hurst v. Florida*, 577 U.S. 92 (2016).

unconstitutional to execute Gaskin after almost thirty-three years of living on death row in near-total solitary confinement.

After holding a *Huff*² hearing, the circuit court summarily denied relief on all four claims. Gaskin now appeals that denial and raises three issues. He also petitions this Court for a writ of habeas corpus, moves for a stay of execution, and requests oral argument.

ANALYSIS

Gaskin's Third Successive Motion for Postconviction Relief

Gaskin argues that the circuit court erred in its summary denial of his third successive motion for postconviction relief, and he raises three issues in this appeal: (1) Gaskin's death sentences and execution are unconstitutional because the mitigating circumstances in his case outweigh the aggravating factors, exempting him from the class of persons subject to the death penalty; (2) Gaskin's death sentences and execution are unconstitutional because his jury failed to make specific findings regarding the aggravating factors and mitigating circumstances, and the jury did not unanimously recommend that he be sentenced

2. *Huff v. State*, 622 So. 2d 982 (Fla. 1993).

to death (*Hurst* claim); and (3) executing Gaskin after more than thirty years on death row violates the Eighth Amendment’s prohibition of cruel and unusual punishment.

Standard of Review

Gaskin’s successive postconviction claims are governed by Florida Rule of Criminal Procedure 3.851. In particular, a motion for postconviction relief must set forth the type of relief the defendant seeks, *see* rule 3.851(e)(1)(C), and it must include “a detailed allegation of the factual basis for any claim for which an evidentiary hearing is sought.” Fla. R. Crim. P. 3.851(e)(1)(D). Whenever the movant makes a facially sufficient claim that requires a factual determination, the movant is entitled to an evidentiary hearing. However, rule 3.851(f)(5)(B) permits the denial of a successive postconviction motion without an evidentiary hearing “[i]f the motion, files, and records in the case conclusively show that the movant is entitled to no relief.”

Because the circuit court denied Gaskin’s third successive rule 3.851 motion without holding an evidentiary hearing, this Court reviews the circuit court’s decision *de novo*, “accepting the movant’s factual allegations as true to the extent they are not

refuted by the record, and affirming the ruling if the record conclusively shows that the movant is entitled to no relief.” *Pardo v. State*, 108 So. 3d 558, 561 (Fla. 2012) (quoting *Gore v. State*, 91 So. 3d 769, 774 (Fla. 2012)).

Mitigating Circumstances

Gaskin argues that his death sentences are unconstitutional because the mitigating circumstances outweigh the aggravating factors in his case. In particular, he contends that the jury was not presented with mitigating evidence that had it been presented, would have resulted in sentences of life imprisonment for the murders. Gaskin asserts that defense counsel failed to investigate and present mental health mitigation in the form of expert and lay testimony that would have more fully informed the jury of various mental health challenges. Additionally, he contends that the defense mental health expert, who was hired by defense counsel but never called to testify at trial, was not provided the information necessary to develop a full mental health profile. During the death warrant proceedings in the circuit court, Gaskin sought an evidentiary hearing to present mental health expert testimony, but postconviction counsel acknowledged at the *Huff* hearing that the

expert's testimony would not have been offered as newly discovered evidence.

The circuit court did not err in summarily denying this claim because it is procedurally barred. Gaskin raised this claim in his initial motion for postconviction relief, and it was fully considered by the circuit court and this Court. Although the circuit court summarily denied the claim at first, this Court remanded Gaskin's case for an evidentiary hearing to consider whether defense counsel was ineffective for (1) failing to investigate and present certain mitigating evidence, (2) failing to provide information to defense experts, and (3) failing to call certain witnesses to testify on his behalf.³ Following the evidentiary hearing, the circuit court denied Gaskin's initial motion for postconviction relief, and this Court affirmed.

Even if Gaskin's claim was not procedurally barred, he still would not be entitled to relief. In denying initial postconviction relief, the circuit court concluded that defense counsel made

3. An additional claim, regarding counsel's status as a deputy sheriff, was also granted an evidentiary hearing, but Gaskin did not later appeal the circuit court's denial of that claim.

reasonable strategic decisions not to present certain evidence and the testimony of certain witnesses because that would have resulted in the jury hearing highly negative information about Gaskin. This Court explained:

In the order denying relief, the trial court addressed Gaskin's allegation that trial counsel should have called mental health experts to testify at the penalty phase about mental mitigation. The trial court noted that Dr. Krop, one of the defense mental health experts at trial, testified at the evidentiary hearing that he expressly told counsel before trial that he would not be of much help to the defense because he would have to testify about Gaskin's extensive history of past criminal conduct, sexual deviancy, and lack of remorse. The trial court also stated that trial counsel testified at the hearing that he made a strategic decision not to present mental health experts precisely because Gaskin's background contained many negatives (including Dr. Krop's proposed testimony).

Gaskin, 822 So. 2d at 1247-48. The trial court found that counsel conducted a reasonable investigation before trial and "made a reasonable, strategic decision not to present this information to the jury and not to present Dr. Krop's findings to the judge." *Id.* at 1248.

As to Gaskin's argument that counsel should have presented the testimony of additional lay witnesses, the trial court observed

that the testimony of such witnesses, offered at the evidentiary hearing, produced the following:

[T]here was testimony regarding the Defendant sexually forcing himself on a six-year-old boy, the Defendant's consensual, incestuous relationships and sexual deviancy, including bestiality, the Defendant's violent attempt to sexually force himself on his former girlfriend, the Defendant's admission that he loved to kill and that he killed cats and snakes, and his history of stealing at school and from his great-grandparents.

Id. The trial court concluded that counsel reasonably decided not to present testimony relating to Gaskin's violent past and criminal conduct because the jury may have considered it additional aggravation. *Id.*

This Court affirmed, concluding that counsel's strategy regarding mitigating evidence was reasonable: "It is apparent from the record that the witnesses who Gaskin alleges should have testified on his behalf were subject to being cross-examined about disturbing information about Gaskin, which would have defeated trial counsel's strategy." *Id.* at 1249.

Gaskin concedes in his initial brief that this issue is procedurally barred but argues that constitutional infirmities afflict his case and are sufficient to overcome a procedural bar. However,

we reject this argument and conclude that Gaskin's constitutional arguments are insufficient to overcome the procedural bar. The circuit court did not err in denying an evidentiary hearing on this claim, which was previously raised and considered, and is conclusively refuted by the record.

Hurst

Gaskin next argues that he is entitled to relief pursuant to *Hurst v. Florida* and section 921.141, Florida Statutes. He maintains that he was unconstitutionally denied a jury determination, proof of aggravating factors beyond a reasonable doubt, unanimity as to aggravating factors, and unanimous jury recommendations of death. He argues that this amounts to a violation of his Eighth Amendment rights and his right to equal protection under the Fourteenth Amendment.

This issue is procedurally barred, as it was raised and addressed in Gaskin's first and second successive motions for postconviction relief. Gaskin first sought postconviction relief following the United States Supreme Court's decision in *Hurst v. Florida*, and again following this Court's decision in *Hurst v. State*, 202 So. 3d 40 (Fla. 2016). Appealing the circuit court's denial of

both successive motions, this Court affirmed on the grounds that *Hurst* is not retroactive to Gaskin's sentences, which became final before *Ring v. Arizona*, 536 U.S. 584 (2002), was decided. *See Gaskin*, 218 So. 3d at 401 (Fla. 2017), *cert. denied*, 138 S. Ct. 471 (2017); *Gaskin*, 237 So. 3d at 929 (Fla. 2018), *cert. denied*, 139 S. Ct. 327 (2018).

This Court has repeatedly rejected similar arguments relating to the retroactivity of *Hurst*. *See, e.g., Hitchcock v. State*, 226 So. 3d 216, 217 (Fla. 2017); *Lambrix v. State*, 227 So. 3d 112, 113 (Fla. 2017); *Bogle v. State*, 213 So. 3d 833, 855 (Fla. 2017); *Asay v. State*, 210 So. 3d 1, 22 (Fla. 2016).

Moreover, in *State v. Poole*, 297 So. 3d 487, 504-05 (Fla. 2020), this Court held that unanimous jury recommendations of death are not required. Rather, what is required is the finding of one or more aggravating factors beyond a reasonable doubt. *See id.* at 502-03 ("Under longstanding Florida law, there is only one eligibility finding required: the existence of one or more statutory aggravating circumstances."). The jury found Gaskin guilty of the contemporaneous murders of the Sturmfelses, in addition to multiple other felonies including armed robbery and burglary.

These unanimous findings by the jury establish the existence of two aggravating factors: prior violent felony and murder committed while engaged in the commission of a robbery or burglary. Thus, these findings satisfy the requirements in *Poole*.

Additionally, Gaskin's equal protection argument is a further attempt to challenge this Court's consistent holding on *Hurst* retroactivity. This argument is also procedurally barred and has previously been rejected by this Court. *See Lambrix*, 227 So. 3d at 113. The circuit court's summary denial of Gaskin's *Hurst* claim was proper.

Length of Time on Death Row

Gaskin also argues that executing him after he has spent more than three decades on death row, and most of that time in what he deems solitary confinement, constitutes cruel and unusual punishment.

However, this Court has repeatedly rejected the argument that a lengthy stay on death row amounts to cruel and unusual punishment. Gaskin concedes that recently, this Court observed that “[n]o federal or state court has accepted the argument that a prolonged stay on death row constitutes cruel and unusual

punishment.” *Dillbeck v. State*, 48 Fla. L. Weekly S32 (Fla. Feb. 16, 2023) (quoting *Booker v. State*, 969 So. 2d 186, 200 (Fla. 2007)).

Gaskin has argued no grounds for departing from this precedent.

We also reject Gaskin’s arguments regarding what he characterizes as solitary confinement on death row. In fact, noting the similarities to the recent *Dillbeck* death warrant case, Gaskin further concedes: “Mr. Gaskin recognizes that his conditions were similar, if not identical, to Mr. Dillbeck’s, up to and including the length of their stays on death row, however, he asserted this claim to exhaust for further review.” The circuit court properly summarily denied relief.

Habeas Claim

In his habeas petition, Gaskin argues that he is entitled to relief because during the penalty phase, the jury was unconstitutionally instructed that it may consider whether “the crime for which the Defendant is to be sentenced was especially wicked, evil, atrocious, or cruel.” The trial court found the existence of the aggravating factor as to Georgette Sturmfels but rejected it as to Robert Sturmfels.

After the United States Supreme Court remanded Gaskin's case for reconsideration in light of *Espinosa*, this Court concluded that the issue was not preserved. This Court further concluded that even if the issue had been preserved, any error in finding the aggravating factor as to the murder of Georgette Sturmels was harmless.

Presently, Gaskin challenges this Court's conclusion that he did not properly preserve the jury instruction issue and contends that he did argue the unconstitutionality of the aggravating factor in a pretrial motion. He also argues that this Court's conclusion that he did not object at trial cannot be conclusively determined because relevant discussions may be missing from the record.

Gaskin maintains that the jury improperly considered the unconstitutionally vague instruction as to both murders, and that he is entitled to relief.

Habeas corpus is not to be used to litigate or relitigate issues which could have been, should have been, or were previously raised. *See, e.g., Breedlove v. Singletary*, 595 So. 2d 8, 10 (Fla. 1992).

Where this Court has previously ruled that the *Espinosa* error as to Georgette Sturmfels was harmless, *see Gaskin*, 615 So. 2d at 680, we do not revisit that ruling.

However, we recognize that this Court did not address the *Espinosa* error as to Robert Sturmfels, even though the following argument was made by appellate counsel in the initial brief on remand from the United States Supreme Court:

The fact that the trial court did not find HAC present in one of the murders does not render the error harmless as to that sentence. Even though the trial court did not find it, the jury returned a death recommendation (eight to four on both murders) after hearing the unconstitutional *Espinosa* instruction. *Sochor, supra.* Likewise, after hearing the trial court's "blanket" statement that he would impose the death penalty even if this aggravating circumstance were stricken, means absolutely nothing.

We must presume that this Court rejected this argument. However, because the jury was given the unconstitutional instruction as to both murders, we will explain the harmless error analysis implicit in this Court's earlier decision.

Although the jury was erroneously instructed on the "especially wicked, evil, atrocious, or cruel" aggravating factor, the error is also harmless as to Robert Sturmfels. Affirmance of

Gaskin's sentence is required if "there is no reasonable possibility that the error contributed to the" death sentence. *State v. DiGuilio*, 491 So. 2d 1129, 1138 (Fla. 1986).

We conclude that there is no reasonable possibility that the error contributed to the death sentence for the murder of Robert Sturmels in light of the substantial aggravation in this case: the extremely weighty (1) prior violent felony, and (2) cold, calculated, and premeditated factors, *see Bush v. State*, 295 So. 3d 179, 215 (Fla. 2020), and (3) the murder occurred during the commission of a robbery or burglary factor.

As such, we deny Gaskin's habeas petition.

Motion for Stay of Execution

Gaskin argues that more time is needed to resolve the complex issues he raises in his appeal and habeas petition. However, we disagree. Because Gaskin has failed to raise substantial grounds upon which relief might be granted, a stay is not appropriate here. *See Buenoano v. State*, 708 So. 2d 941, 952 (Fla. 1998) (denying motion for stay of execution where movant failed to establish "substantial grounds upon which relief might be granted").

CONCLUSION

For these reasons, we affirm the denial of Gaskin's third successive motion for postconviction relief. We also deny his petition for a writ of habeas corpus and his motion for a stay of execution. We also deny his request for oral argument.

No rehearing will be entertained by this Court, and the mandate shall issue immediately.

It is so ordered.

MUÑIZ, C.J., and CANADY, COURIEL, GROSSHANS, and FRANCIS, JJ., concur.

LABARGA, J., concurs in result.

An Appeal from the Circuit Court in and for Flagler County,
Terence R. Perkins, Judge
Case No. 181990CF000001AXXXX
And an Original Proceeding – Habeas Corpus

Eric Pinkard, Capital Collateral Regional Counsel, Tracy M. Henry and Courtney L. Hackett, Assistant Capital Collateral Regional Counsel, Middle Region, Temple Terrace, Florida,

for Appellant/Petitioner

Ashley Moody, Attorney General, Tallahassee, Florida, Doris Meacham, Senior Assistant Attorney General, Daytona Beach, Florida, and Patrick Bobek, Assistant Attorney General, Daytona Beach, Florida,

for Appellee/Respondent

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

**LOUIS B. GASKIN,
PETITIONER,**

VS.

**STATE OF FLORIDA,
RESPONDENT.**

On Petition for a Writ of Certiorari to the Supreme Court of Florida

APPENDIX TO THE PETITION FOR WRIT OF CERTIORARI

**THIS IS A CAPITAL CASE
WITH AN EXECUTION SCHEDULED FOR
WEDNESDAY, APRIL 12, 2023, AT 6:00 PM**

APPENDIX C

ERIC C. PINKARD*
FLORIDA BAR NO. 651443
LAW OFFICE OF THE CAPITAL
COLLATERAL REGIONAL COUNSEL
12973 N. TELECOM PARKWAY
TEMPLE TERRACE, FLORIDA 33637
PHONE NO. (813)558-1600 EXT 603
FAX NO. (813) 558-1601
EMAIL: PINKARD@CCMR.STATE.FL.US
*COUNSEL OF RECORD

BOOK 00153011

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

STATE OF FLORIDA

VS₄

CASE NO. 90-01-CFA

LOUIS BERNARD GASKIN, a/k/a
LOUIS BERNARD GASKINS

SENTENCING RECOMMENDATION FOR
FIRST DEGREE MURDER OF ROBERT STURMFELS

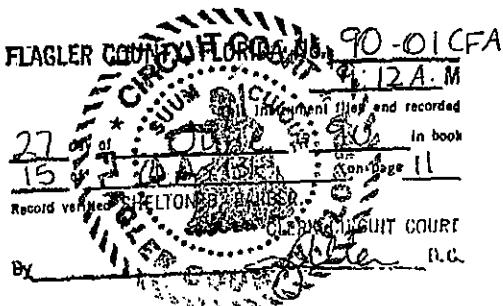
We, the jury, find as follows, as to the defendant in this case:
(check only one)

X A majority of the jury, by a vote of 8, advise and recommend to the court that it impose the death penalty upon LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, for the death of ROBERT STURMFELS.

The jury advises and recommends to the court that it impose a sentence of life imprisonment upon LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, without possibility of parole for 25 years, for the death of ROBERT STURMFELS.

Dated at Bunnell, Flagler County, Florida, this 18 day of JUNE, 1990.

John E. Hart
FOREPERSON



1301

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

STATE OF FLORIDA

vs.

CASE NO. 90-01-CFA

LOUIS BERNARD GASKIN, a/k/a
LOUIS BERNARD GASKINS

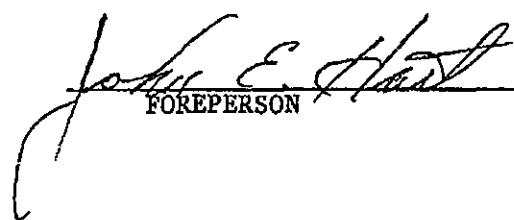
SENTENCING RECOMMENDATION FOR
FIRST DEGREE MURDER OF GEORGETTE STURMFELS

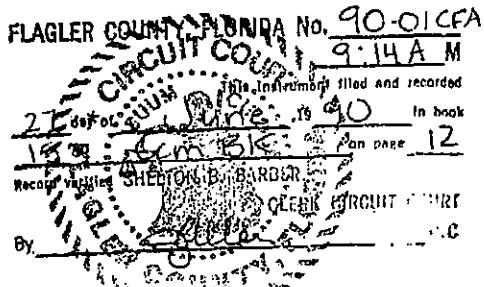
We, the jury, find as follows, as to the defendant in this case:
(check only one)

A majority of the jury, by a vote of 8, advise and recommend to the court that it impose the death penalty upon LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, for the death of GEORGETTE STURMFELS.

The jury advises and recommends to the court that it impose a sentence of life imprisonment upon LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, without possibility of parole for 25 years, for the death of GEORGETTE STURMFELS.

Dated at Bunnell, Flagler County, Florida, this 18 day of JUNE, 1990.


John E. Hart
FOREPERSON



1302

PROBATION VIOLATOR
(Check If Applicable)

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR

FLAGLER COUNTY, FLORIDA

DIVISION C

CASE NUMBER 90-01-CFA

STATE OF FLORIDA

130 PM 30 PM 12 1 1982

—vs—
LOUIS BERNARD GASKIN a/k/a
LOUIS BERNARD GASKINS

Defendant

JUDGMENT

The Defendant, LOUIS BERNARD GASKIN a/k/a LOUIS BERNARD GASKINS, being personally before this Court represented by RAYMOND CASS, JR., ESQ., APD, his attorney of record, and having:

(Check Applicable Provision)
 Been tried and found guilty of the following crime(s)
 Entered a plea of guilty to the following crime(s)
 Entered a plea of nolo contendere to the following crime(s)

COUNT	CRIME	OFFENSE STATUTE NUMBER(S)	DEGREE OF CRIME	CASE NUMBER
I	FIRST DEGREE MURDER	782.04(1)(a)1	CAPITAL	<i>See attached</i>
II	FIRST DEGREE MURDER	782.04(1)(a)2	CAPITAL	<i>See attached</i>
III	FIRST DEGREE MURDER	782.04(1)(a)1	CAPITAL	<i>See attached</i>
IV	FIRST DEGREE MURDER	782.04(1)(a)2	CAPITAL	<i>See attached</i>
V	ARMED ROBBERY WITH FIREARM	812.13(1)&(2)(a)	IF P.B.L.	<i>61940</i>
VI	BURGLARY OF DWELLING WITH FIREARM	810.02(2)(b)	IF P.B.L.	
VII	ATTEMPTED FIRST DEGREE MURDER WITH FIREARM	782.04(1)(a)1 & 777.04	LIFE	
IX	ARMED ROBBERY WITH FIREARM	812.13(1)&(2)(a)	IF P.B.L.	
X	BURGLARY OF DWELLING WITH FIREARM	810.02(2)(b)	IF P.B.L.	

and no cause having been shown why the Defendant should not be adjudicated guilty, IT IS ORDERED THAT the Defendant is hereby ADJUDICATED GUILTY of the above crime(s).

The Defendant is hereby ordered to pay the sum of Twenty dollars (\$20.00) pursuant to F.S. 960.20 (Crimes Compensation Trust Fund). The Defendant is further ordered to pay the sum of \$3.00 as a court cost pursuant to F.S. 943.25(3) and the sum of \$

as a court cost pursuant to F.S. 943.25(8)(a).

(Check If Applicable)

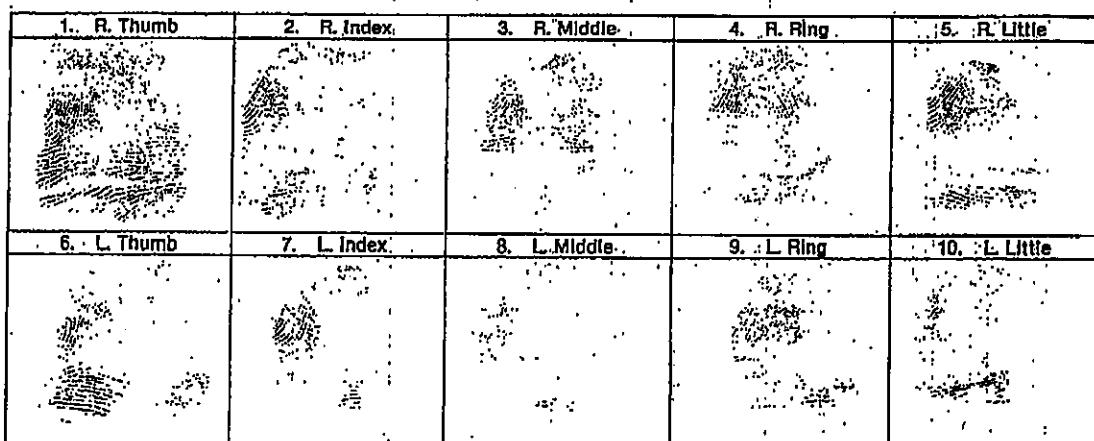
- The Defendant is ordered to pay an additional sum of two dollars (\$2.00) pursuant to F.S. 943.25(8).
(This provision is optional; not applicable unless checked.)
- The Defendant is further ordered to pay a fine in the sum of \$
pursuant to F.S. 775.0835.
(This provision refers to the optional fine for the Crimes Compensation Trust Fund, and is not applicable unless checked and completed. Fines imposed as part of a sentence pursuant to F.S. 775.083 are to be recorded on the Sentence page(s).)
- The Court hereby imposes additional court costs in the sum of \$
pursuant to F.S. 27.3455(1).

Imposition of Sentence Stayed and Withheld (Check If Applicable) The Court hereby stays and withholds the imposition of sentence as to count(s) and places the Defendant on probation for a period of _____ under the supervision of the Department of Corrections (conditions of probation set forth in separate order.)

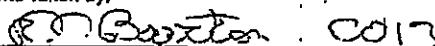
Sentence Deferred Until Later Date (Check If Applicable) The Court hereby defers imposition of sentence until _____ (date)

The Defendant in Open Court was advised of his right to appeal from this Judgment by filing notice of appeal with the Clerk of Court within thirty days following the date sentence is imposed or probation is ordered pursuant to this adjudication. The Defendant was also advised of his right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigency.

FINGERPRINTS OF DEFENDANT



Fingerprints taken by:

 R. Baxter 2013

Name and Title

DONE AND ORDERED in Open Court at FLAGLER County, Florida, this 19th day of JUNE A.D. 1990. I HEREBY CERTIFY that the above and foregoing fingerprints are the fingerprints of the Defendant, LOUIS BERNARD GASKIN and that they were placed thereon by said Defendant in my presence in Open Court this date.

Judgment and Sentence and Written Findings in Support of Sentence as to CTS I-IV, attached hereto and made a part of the Judgment and Sentence.

 JUDGE

1304

Defendant LOUIS BERNARD GASKIN
 Case Number 90-01-CFA

SENTENCE

(As to Count V)

The Defendant, being personally before this Court, accompanied by his attorney, RAYMOND CASS, JR., ESO, and having been adjudicated guilty herein, and the Court having given the Defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why he should not be sentenced as provided by law, and no cause being shown,

(Check either provision if applicable)

and the Court having on _____ deferred imposition of sentence until this date. (date)

and the Court having placed the Defendant on probation and having subsequently revoked the Defendant's probation by separate order entered herein.

IT IS THE SENTENCE OF THE LAW that;

The Defendant pay a fine of \$ _____, plus \$ _____ as the 5% surcharge required by F.S. 960.25.

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

The Defendant is hereby committed to the custody of the Sheriff of _____ County, Florida
 (Name of local corrections authority to be inserted at printing, if other than Sheriff)

To be Imprisoned (check one; unmarked sections are Inapplicable)

For a term of Natural Life

For a term of THIRTY YEARS

For an indeterminate period of 6 months to _____ years.

Followed by a period of _____ on probation under the supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

However, after serving a period of _____ imprisonment in _____ the balance of such sentence shall be suspended and the Defendant shall be placed on probation for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

If "split" sentence complete either of these two paragraphs

SPECIAL PROVISIONS

By appropriate notation, the following provisions apply to the sentence imposed in this section:

Firearm — 3 year mandatory minimum It is further ordered that the 3 year minimum provisions of F.S. 775.087(2) are hereby imposed for the sentence specified in this count, as the Defendant possessed a firearm.

Drug Trafficking — mandatory minimum It is further ordered that the _____ year minimum provisions of F.S. 893.135(1)(k) are hereby imposed for the sentence specified in this count.

Retention of Jurisdiction The Court pursuant to F.S. 947.16(3) retains jurisdiction over the defendant for review of any Parole Commission release order for the period of _____. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.

Habitual Offender The Defendant is adjudged a habitual offender and has been sentenced to an extended term in this sentence in accordance with the provisions of F.S. 775.084(4)(a). The requisite findings by the court are set forth in a separate order or stated on the record in open court.

Jail Credit It is further ordered that the Defendant shall be allowed a total of 201 DAYS credit for such time as he has been incarcerated prior to imposition of this sentence. Such credit reflects the following periods of incarceration (optional):

Consecutive/Concurrent It is further ordered that the sentence imposed for this count shall run consecutively to concurrent with (check one) the sentence set forth in count 1, 11, 111 & 1111 above.

Defendant LOUIS BERNARD GASKIN
 Case Number 90-01-CFA

SENTENCE

(As to Count VI)

The Defendant, being personally before this Court, accompanied by his attorney, RAYMOND CASS, JR., ESQ., and having been adjudicated guilty herein, and the Court having given the Defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why he should not be sentenced as provided by law, and no cause being shown.

(Check either provision
 If applicable)

- and the Court having on _____ deferred imposition of sentence until this date: _____ (date)
- and the Court having placed the Defendant on probation and having subsequently revoked the Defendant's probation by separate order entered herein,

IT IS THE SENTENCE OF THE LAW that;

- The Defendant pay a fine of \$_____ plus \$_____ as the 5% surcharge required by F.S. 860.25.
- The Defendant is hereby committed to the custody of the Department of Corrections
- The Defendant is hereby committed to the custody of the Sheriff of _____ County, Florida
 (Name of local corrections authority to be inserted at printing, if other than Sheriff)

To be Imprisoned (check one; unmarked sections are Inapplicable)

For a term of Natural Life
 For a term of _____
 For an indeterminate period of 6 months to _____ years.

If "split" sentence
 complete either of
 these two paragraphs

- Followed by a period of _____ on probation under the supervision of the Department of Corrections, according to the terms and conditions of probation set forth in a separate order entered herein.
- However, after serving a period of _____ Imprisonment in _____ the balance of such sentence shall be suspended and the Defendant shall be placed on probation for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

SPECIAL PROVISIONS

By appropriate notation, the following provisions apply to the sentence imposed in this section:

Firearm — 3 year mandatory minimum
 Drug Trafficking — mandatory minimum
 Retention of Jurisdiction
 Habitual Offender
 Jail Credit

- It is further ordered that the 3 year minimum provisions of F.S. 775.087(2) are hereby imposed for the sentence specified in this count, as the Defendant possessed a firearm.
- It is further ordered that the _____ year minimum provisions of F.S. 893.135(1)(X) are hereby imposed for the sentence specified in this count.
- The Court pursuant to F.S. 947.16(3) retains jurisdiction over the defendant for review of any Parole Commission release order for the period of _____. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.
- The Defendant is adjudged a habitual offender and has been sentenced to an extended term in this sentence in accordance with the provisions of F.S. 775.084(4)(a). The requisite findings by the court are set forth in a separate order or stated on the record in open court.
- It is further ordered that the Defendant shall be allowed a total of 201 DAYS credit for such time as he has been incarcerated prior to imposition of this sentence. Such credit reflects the following periods of incarceration (optional):

Consecutive/Concurrent

It is further ordered that the sentence imposed for this count shall run consecutive to concurrent with (check one) the sentence set forth in count I, II, III, IV, V, above.

Defendant LOUIS BERNARD GASKIN
 Case Number 90-01-CFA

SENTENCE

(As to Count VII)

The Defendant, being personally before this Court, accompanied by his attorney, RAYMOND CASS, JR., ESO, and having been adjudicated guilty herein, and the Court having given the Defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why he should not be sentenced as provided by law; and no cause being shown.

(Check either provision if applicable)

and the Court having on _____ deferred imposition of sentence until this date; or

and the Court having placed the Defendant on probation and having subsequently revoked the Defendant's probation by separate order entered herein.

IT IS THE SENTENCE OF THE LAW that:

The Defendant pay a fine of \$ _____, plus \$ _____ as the 5% surcharge required by F.S. 960.25.

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

The Defendant is hereby committed to the custody of the Sheriff of _____ County, Florida
 (Name of local corrections authority to be inserted at printing, if other than Sheriff)

To be Imprisoned (check one; unmarked sections are inapplicable)

For a term of Natural Life

For a term of _____

For an Indeterminate period of 6 months to _____ years

Followed by a period of _____ on probation under the supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

However, after serving a period of _____ Imprisonment in _____ the balance of such sentence shall be suspended and the Defendant shall be placed on probation for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

SPECIAL PROVISIONS

By appropriate notation, the following provisions apply to the sentence imposed in this section:

Firearm — 3 year, mandatory minimum It is further ordered that the 3 year minimum provisions of F.S. 775.087(2) are hereby imposed for the sentence specified in this count, as the Defendant possessed a firearm.

Drug Trafficking — mandatory minimum It is further ordered that the _____ year minimum provisions of F.S. 893.135(1)(b) are hereby imposed for the sentence specified in this count.

Retention of Jurisdiction The Court pursuant to F.S. 847.16(3) retains jurisdiction over the defendant for review of any Parole Commission release order for the period of _____. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.

Habitual Offender The Defendant is adjudged a habitual offender and has been sentenced to an extended term in this sentence in accordance with the provisions of F.S. 775.084(4)(a). The requisite findings by the court are set forth in a separate order or stated on the record in open court.

Jail Credit It is further ordered that the Defendant shall be allowed a total of 201 DAYS credit for such time as he has been incarcerated prior to imposition of this sentence. Such credit reflects the following periods of incarceration (optional):

Consecutive/Concurrent:

It is further ordered that the sentence imposed for this count shall run consecutive to or concurrent with (check one) the sentence set forth in count I, II, III, IV, V, VI & VII above.

Defendant LOUIS BERNARD GASKIN
 Case Number 90-01-CFA

SENTENCE

(As to Count IX)

The Defendant, being personally before this Court, accompanied by his attorney, RAYMOND CASSI JR., ESQ., and having been adjudicated guilty herein, and the Court having given the Defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why he should not be sentenced as provided by law, and no cause being shown.

(Check either provision
 If applicable)

and the Court having on _____ deferred imposition of sentence until this date.

and the Court having placed the Defendant on probation and having subsequently revoked the Defendant's probation by separate order entered herein.

IT IS THE SENTENCE OF THE LAW that;

The Defendant pay a fine of \$ _____, plus \$ _____ as the 5% surcharge required by F.S. 960.25.

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

The Defendant is hereby committed to the custody of the Sheriff of _____ County, Florida
 (Name of local corrections authority to be inserted at printing, if other than Sheriff)

To be imprisoned (check one; unmarked sections are inapplicable)

If "split" sentence
 complete either of
 these two paragraphs

For a term of Natural Life

For a term of THIRTY YEARS

For an indeterminate period of 6 months to _____ years.

Followed by a period of _____ on probation under the supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

However, after serving a period of _____ imprisonment in _____ the balance of such sentence shall be suspended and the Defendant shall be placed on probation for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

SPECIAL PROVISIONS

By appropriate notation, the following provisions apply to the sentence imposed in this section:

Firearm — 3 year mandatory minimum

It is further ordered that the 3 year minimum provisions of F.S. 775.087(2) are hereby imposed for the sentence specified in this count, as the Defendant possessed a firearm.

Drug Trafficking — mandatory minimum

It is further ordered that the _____ year minimum provisions of F.S. 893.135(1)(a) are hereby imposed for the sentence specified in this count.

Retention of Jurisdiction

The Court pursuant to F.S. 947.16(3) retains jurisdiction over the defendant for review of any Parole Commission release order for the period of _____. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.

Habitual Offender

The Defendant is adjudged a habitual offender and has been sentenced to an extended term in this sentence in accordance with the provisions of F.S. 775.084(4)(a). The requisite findings by the court are set forth in a separate order or stated on the record in open court.

Jail Credit

It is further ordered that the Defendant shall be allowed a total of 201 DAYS credit for such time as he has been incarcerated prior to imposition of this sentence. Such credit reflects the following periods of incarceration (optional):

Consecutive/Concurrent

It is further ordered that the sentence imposed for this count shall run consecutive to concurrent with (check one) the sentence set forth in count IX, X, XI, III, IV, V, VI, & VII.

Defendant LOUIS BERNARD GASKINCase Number 90-01-CEA

SENTENCE

(As to Count X)

The Defendant, being personally before this Court, accompanied by his attorney, RAYMOND CASS, JR., ESQ., and having been adjudicated guilty herein, and the Court having given the Defendant an opportunity to be heard and to offer matter in mitigation of sentence, and to show cause why he should not be sentenced as provided by law, and no cause being shown.

(Check either provision
If applicable)

and the Court having on _____ deferred imposition of sentence until this date, (date)

and the Court having placed the Defendant on probation and having subsequently revoked the Defendant's probation by separate order entered herein,

IT IS THE SENTENCE OF THE LAW that:

The Defendant pay a fine of \$ _____, plus \$ _____ as the 5% surcharge required by F.S. 960.25.

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

The Defendant is hereby committed to the custody of the Sheriff of _____ County, Florida
(Name of local corrections authority to be inserted at printing, if other than Sheriff).

To be Imprisoned (check one; unmarked sections are Inapplicable)

For a term of Natural Life

For a term of _____

For an Indeterminate period of 6 months to _____ years.

Followed by a period of _____ on probation under the supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

However, after serving a period of _____ Imprisonment in _____ the balance of such sentence shall be suspended and the Defendant shall be placed on probation for a period of _____ undersupervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

If "split" sentence complete either of these two paragraphs

SPECIAL PROVISIONS

By appropriate notation, the following provisions apply to the sentence imposed in this section:

Firearm — 3 year mandatory minimum It is further ordered that the 3 year minimum provisions of F.S. 775.087(2) are hereby imposed for the sentence specified in this count, as the Defendant possessed a firearm.

Drug Trafficking — mandatory minimum It is further ordered that the _____ year minimum provisions of F.S. 893.135(1)(X) are hereby imposed for the sentence specified in this count.

Retention of Jurisdiction The Court pursuant to F.S. 947.16(3) retains jurisdiction over the defendant for review of any Parole Commission release order for the period of _____. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.

Habitual Offender The Defendant is adjudged a habitual offender and has been sentenced to an extended term in this sentence in accordance with the provisions of F.S. 775.084(4)(a). The requisite findings by the court are set forth in a separate order or stated on the record in open court.

Jail Credit It is further ordered that the Defendant shall be allowed a total of 201 DAYS credit for such time as he has been incarcerated prior to imposition of this sentence. Such credit reflects the following periods of incarceration (optional):

Consecutive/Concurrent

It is further ordered that the sentence imposed for this count shall run consecutive to concurrent with (check one) the sentence set forth in count I, II, III, IV above, V, VI, VII, & IX

Defendant LOUIS GASKINCase Number 90-01-CCA**Consecutive/Concurrent
(As to other convictions)**

It is further ordered that the composite term of all sentences imposed for the counts specified in this order shall run consecutive to concurrent with (check one) the following:

Any active sentence being served:

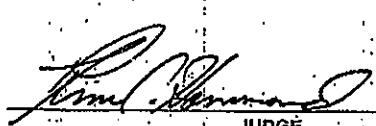
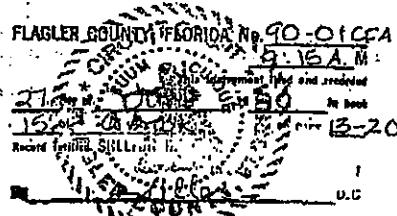
Specific sentences:

In the event the above sentence is to the Department of Corrections, the Sheriff of FLAGLER County, Florida is hereby ordered and directed to deliver the Defendant to the Department of Corrections together with a copy of this Judgment and Sentence.

The Defendant in Open Court was advised of his right to appeal from this Sentence by filing notice of appeal within thirty days from this date with the Clerk of this Court, and the Defendant's right to the assistance of counsel in taking said appeal at the expense of the State upon showing of Indigency.

In imposing the above sentence, the Court further recommends:

DONE AND ORDERED in Open Court at FLAGLER County, Florida, this 19th day of JUNE A.D. 1990.


 JUDGE


BOOK C01560021

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

CASE NUMBER: 90-01-CFA

STATE OF FLORIDA

vs.

LOUIS BERNARD GASKIN a/k/a
LOUIS BERNARD GASKINS,

Defendant.

JUDGMENT AND SENTENCE

The Defendant, Louis Bernard Gaskin a/k/a Louis Bernard Gaskins, now stands before this Court for sentencing, being represented by Raymond Cass, his attorney of record, and having been tried and found guilty by a jury of twelve of his peers of COUNT I-FIRST DEGREE MURDER (PREMEDITATED) and COUNT II-FIRST DEGREE MURDER (FELONY MURDER). The Defendant was adjudicated guilty on June 15, 1990, and thereafter the jury rendered an advisory opinion that the death sentence be imposed.

Mr. Cass, is there any legal cause why the judgment and sentence of the law should not be pronounced?

The Court has considered the aggravating and mitigating circumstances presented in this case and finds them as provided in the "WRITTEN FINDINGS IN SUPPORT OF SENTENCE FOR THE MURDER OF ROBERT STURMFELS" attached hereto and incorporated herein as a part of this sentence.

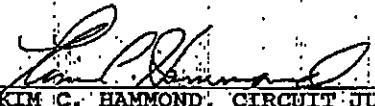
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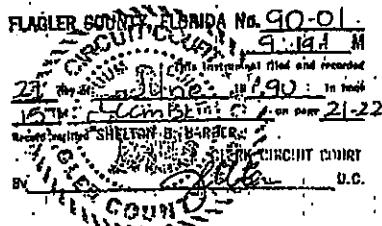
In considering both aggravating and mitigating circumstances surrounding the murder of Robert Sturmels, this Court concludes that the aggravating circumstances found herein, proven beyond a reasonable doubt, outweigh all mitigating circumstances, as indicated in the written findings attached hereto.

There being no legal cause shown why the judgment and sentence of the law should not be pronounced, the Court adjudges that you, the Defendant, Louis Bernard Gaskin, are guilty of the crime of FIRST DEGREE MURDER (PREMEDITATED) and FIRST DEGREE MURDER (FELONY MURDER). It is the sentence of the Court that you, the Defendant, be taken into the custody of the Department of Corrections and there at an appointed place and time be put to death.

You have an automatic appeal to the Supreme Court of Florida from the judgment of guilt and the sentence the Court has imposed.

DONE AND ORDERED in Open Court at Flagler County, Florida, this 19th day of June A.D., 1990.


KIM C. HAMMOND, CIRCUIT JUDGE



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BOOK 001 00023

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

STATE OF FLORIDA

vs.

CASE NO. 90-01-CFA

LOUIS BERNARD GASKIN, a/k/a
LOUIS BERNARD GASKINS

WRITTEN FINDINGS IN SUPPORT OF SENTENCE
FOR THE MURDER OF ROBERT STURMELS

A. AGGRAVATING CIRCUMSTANCES

1. Whether the murder of ROBERT STURMELS was committed by the defendant while under sentence of imprisonment?

Finding: The defendant, LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, was not under sentence of imprisonment when he committed the murder of ROBERT STURMELS.

2. Whether the defendant, LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, has been previously convicted of another capital offense or of a felony involving the use or threat of violence to some person?

Finding: The defendant, LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, has previously been convicted of another capital felony, to-wit, First Degree Murder of Georgette Sturmels, and has previously been convicted of other felonies involving the use of violence or threat of violence to persons, to-wit, Attempted First Degree Murder of Joseph M. Rector with a firearm, Armed Robbery of Joseph M. Rector and Mary N. Rector with a firearm, and Burglary of the Dwelling of Joseph M. Rector and Mary N. Rector. On June 15, 1990, in the above styled case, a jury verdict was rendered finding the defendant guilty as charged of Count III of the Indictment for FIRST DEGREE PREMEDITATED MURDER of GEORGETTE STURMELS, Count IV of the Indictment for FIRST DEGREE FELONY MURDER of GEORGETTE STURMELS, Count VII of the Indictment for ATTEMPTED FIRST DEGREE MURDER of JOSEPH M. RECTOR, Count IX of the Indictment for ARMED ROBBERY of the RECTOR'S, and Count X of the Indictment for ARMED BURGLARY OF A DWELLING involving the RECTOR'S, and this court on June 15, 1990 adjudicated the defendant guilty of said offenses in open court.

3. Whether the defendant, LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, knowingly created a great risk of death to many persons?

Finding: The defendant, LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, did not create a great risk of death to many persons.

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4. Whether the capital felony was committed while the defendant was engaged in the commission of, or attempt to commit, any robbery or burglary?

Finding: The First Degree Murder of ROBERT STURMFELS was committed while the defendant was engaged in the commission of, or attempt to commit, a robbery or burglary on GEORGETTE STURMFELS and/or ROBERT STURMFELS. The evidence shows that ROBERT AND GEORGETTE STURMFELS were aware of the attack upon them and attempted to run. Once the defendant had incapacitated his victims by shooting both of them, he ransacked the house and took property from different rooms of the STURMFELS dwelling. He also checked ROBERT STURMFELS' pockets for a wallet or money while he lay on his den floor with four bullets in his body, including a bullet in his head from a close range shot.

5. Whether the crime for which the defendant is to be sentenced was committed for the purpose of avoiding or preventing a lawful arrest?

Finding: The court finds that there is insufficient evidence in the record to show the purpose of the killing of ROBERT STURMFELS was to avoid or prevent arrest.

6. Whether the crime for which the defendant is to be sentenced was committed for pecuniary gain?

Finding: The court, in addition finds, that there is an abundance of evidence in the record to support the finding that the First Degree Murder of ROBERT STURMFELS was committed for pecuniary gain. The murder was committed during the commission of a robbery and burglary. After having shot and executed ROBERT AND GEORGETTE STURMFELS the defendant promptly closed the curtains to the house and began to search through the pockets of ROBERT STURMFELS, drawers in all rooms of the house, closets in the bedrooms and halls of the house. The defendant literally tore the house up looking for property of value that he could take. The defendant took cash, miscellaneous jewelry, GEORGETTE STURMFELS' purse, two living room lamps, two vcr's, a grandfather type pendulum wall clock, a camera, an iron, and a battery from the Sturmfel's vehicle. After having transferred all the stolen property to his own car, the defendant went looking for other victims and property. Within hours of the killing of and theft from the Sturmfel's the defendant went to a dwelling in the same general area and after having shot into the house and scaring the victims, the Rector's away, he entered their house and after having looked through various areas of the house stole the wallet and pants belonging to Joseph Rector and took the purse belonging to Mary N. Rector.

No more than one hour after the Rector's were shot at, the defendant went to a relative's house with property from the Sturmfel's, indicating that he had obtained Christmas gifts for his girlfriend. Not later than Christmas of 1989, and within approximately 5 days of the Sturmfel's death items of property from the Sturmfel's house were given by the defendant to his girlfriend as Christmas presents.

7. Whether the capital felony was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.

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Finding: The defendant, LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, did not disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.

8. Whether the crime for which the defendant is to be sentenced was especially wicked, evil, atrocious, or cruel?

Finding: The First Degree Murder of Robert Stummels is legally not considered wicked, evil, atrocious or cruel. Although ROBERT STUMMELS was shot four times, he was shot in rapid succession and died quickly.

9. Whether the capital offense was a homicide and was committed in a cold, calculated and premeditated manner without any pretense of moral or legal justification?

Finding: The First Degree Murder of ROBERT STUMMELS was committed in a cold, calculated and premeditated manner without any pretense of moral or legal justification. In advance of his trip from Bimini to Palm Coast the defendant loaded his car with the .22 caliber rifle and cutters for telephone wires if needed. He actually cut the phone line at the Rector house prior to his commission of the offenses. In addition, the defendant carried and outfitted himself with gloves, a scarf, goggles, and a camouflage shirt. The victim, ROBERT STUMMELS, did not provoke the defendant nor did he offer any resistance to the defendant. The defendant coldly and calmly thought and thought of the killing as he circled the house of the STUMMELS, finally he shot only to have a missfire. He thought some more and circled the house again and then shot ROBERT STUMMELS three times once in the chest, once in the shoulder area, and a third in the neck. Finally, the defendant entered the house and from close range shot a bullet into ROBERT STUMMELS' head causing the fatal blow.

10. Whether the victim of the capital felony was a law enforcement officer engaged in the performance of his legal duties?

Finding: The victim of this capital felony, ROBERT STUMMELS, was not a law enforcement officer engaged in the performance of his legal duties.

11. Whether the victim of the capital felony was an elected or public official engaged in the performance of his official duties and the motive was related to the victim's official duties?

Finding: The victim of this capital felony, ROBERT STUMMELS, was not an elected or public official engaged in the performance of his official duties and the motive was not related to the victim's official duties.

B. MITIGATING CIRCUMSTANCES

1. Whether the defendant has no significant history of prior criminal activity?

Finding: The court does not find this as a mitigating factor. The defendant has two prior convictions for Burglary of a Structure.

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2. Whether the capital felony of First Degree Murder of ROBERT STURMFELS was committed while the defendant was under the influence of extreme mental or emotional disturbance?

Finding: The murder of ROBERT STURMFELS was committed while the defendant was under the influence of extreme mental or emotional disturbance. Although the court finds that the defendant's capacity was not impaired the court finds that the expert testimony combined with the other facts of the case support this finding. The court notes that it has relied on the same expert testimony for the purpose of determining the factor involving substantially impaired capacity.

3. Whether the victim, ROBERT STURMFELS, was a participant in the defendant's conduct or consented to the act?

Finding: The victim, ROBERT STURMFELS, was not a participant in the defendant's conduct, nor did the victim consent to his act. The evidence showed that the victim was merely sitting in his den with his wife when the shots were fired from outside his home through the den window and curtain into the den striking, and shortly thereafter, killing ROBERT STURMFELS.

4. Whether the defendant was an accomplice in the murder of ROBERT STURMFELS which was committed by another person and the defendant's conduct was relatively minor?

Finding: The defendant, LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, was the sole perpetrator of the murder of ROBERT STURMFELS. There was no evidence of any accomplice in the actual killing of ROBERT STURMFELS and the evidence shows that the defendant was the planner and sole actor in the killing.

5. Whether the defendant acted under extreme duress or under the substantial domination of another person?

Finding: There is no evidence of any form of duress or substantial domination by any other person. All the evidence shows that the defendant, LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, was the only person who contemplated and then carried out the murder of ROBERT STURMFELS.

6. Was the capacity of the defendant's ability to appreciate the criminality of his conduct or to conform his conduct to the requirements of law substantially impaired?

Finding: The defendant was capable of appreciating the criminality of his conduct or to conforming his conduct to the requirements of law. Although there was expert testimony introduced regarding this factor this court has considered that testimony in making a finding of extreme mental disturbance as a mitigating circumstance. The evidence in the case shows the defendant, though crudely planned, carried out the murder in a calculated fashion in order to obtain property from his victim's and then hid the property at a friend's house. The evidence shows the defendant knew at the time he was committing the murder that his conduct was criminal and had the capacity to conform his conduct to the requirements of law. His careful plan to avoid detection was designed so he would not be caught for the crime and suffer the criminal penalties. The facts do not support any implication that

BOOK 001560027

the defendant was engaged in a ninja type assassination.

7. Was the age of the defendant at the time of the offense a factor?

Finding: The court does not find the defendant's age at the time of the commission of First Degree Murder of ROBERT STRUMFELS a mitigating factor. The defendant was 22 years old at the time of the commission of the capital felony.

8. Was the defendant the product of an abused or deprived childhood such as to constitute a mitigating factor?

Finding: The court finds as a mitigating factor that the defendant had a deprived childhood.

The court has found that the evidence supports four (4) aggravating circumstances enumerated in subsection (5) of F.S. 921.141 to-wit, (5) (b), (5) (d), (5) (f), and (5) (i). However, the court further notes that it would be improper to utilize the robbery and the burglary at the Sturmels to support a finding of both (5) (d) and (5) (f), and therefore the court in the weighing process considers (5) (d) and (5) (f) as a single aggravating circumstance.

After having considered and weighed the aggravating circumstances and the mitigating circumstances, the court finds that the mitigating circumstances both statutory and non statutory are insufficient to outweigh the aggravating circumstances which have been found to exist. Furthermore, the court has weighed and considered that any single aggravating circumstance found by this court to exist outweighs all the mitigating factors and supports the imposition of the death penalty in this case.

DATED THIS 19th day of June, 1990 in Bunnell, Flagler County, Florida.



KIM C. HAMMOND - CIRCUIT JUDGE

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BOOK 0015M0028

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

CASE NUMBER: 90-01-CFA

STATE OF FLORIDA

vs.

LOUIS BERNARD GASKIN a/k/a
LOUIS BERNARD GASKINS,

Defendant.

JUDGMENT AND SENTENCE

The Defendant, Louis Bernard Gaskin a/k/a Louis Bernard Gaskins, now stands before this Court for sentencing, being represented by Raymond Cass, his attorney of record, and having been tried and found guilty by a jury of twelve of his peers of COUNT III-FIRST DEGREE MURDER (PREMEDITATED), and COUNT IV-FIRST DEGREE MURDER (FELONY MURDER). The Defendant was adjudicated guilty on June 15, 1990, and thereafter the jury rendered an advisory opinion that the death sentence be imposed.

Mr. Cass, is there any legal cause why the judgment and sentence of the law should not be pronounced?

The Court has considered the aggravating and mitigating circumstances presented in this case and finds them as provided in the "WRITTEN FINDINGS IN SUPPORT OF SENTENCE FOR THE MURDER OF GEORGETTE STURMFELS", attached hereto and incorporated herein as a part of this sentence.

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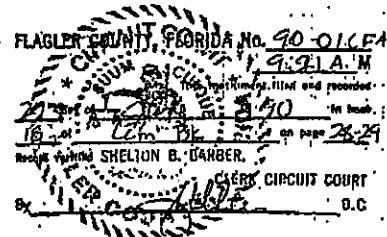
In considering both aggravating and mitigating circumstances surrounding the murder of Georgette Sturmfels, this Court concludes that the aggravating circumstances found herein, proven beyond a reasonable doubt, outweigh all mitigating circumstances, as indicated in the written findings attached hereto.

There being no legal cause shown why the judgment and sentence of the law should not be pronounced, the Court adjudges that you, the Defendant, Louis Bernard Gaskin, are guilty of the crime of FIRST DEGREE MURDER (PREMEDITATED) and FIRST DEGREE MURDER (FELONY MURDER). It is the sentence of the Court that you, the Defendant, be taken into the custody of the Department of Corrections and there at an appointed place and time be put to death.

You have an automatic appeal to the Supreme Court of Florida from the judgment of guilt and the sentence the Court has imposed. Should for any reason this sentence be reduced to life imprisonment without parole for 25 years, then, in that event, the sentence shall run consecutive to the sentence imposed for Count I and/or Count II of this case.

DONE AND ORDERED in Open Court at Flagler County,
Florida, this 19th day of June A.D. 1990.

Kim C. Hammond
KIM C. HAMMOND, CIRCUIT JUDGE



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0015M0030

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

STATE OF FLORIDA

vs.

CASE NO. 90-01-CFA

LOUIS BERNARD GASKIN, a/k/a
LOUIS BERNARD GASKINS

WRITTEN FINDINGS IN SUPPORT OF SENTENCE
FOR THE MURDER OF GEORGETTE STURMFELS

A. AGGRAVATING CIRCUMSTANCES

1. Whether the murder of GEORGETTE STURMFELS was committed by the defendant while under sentence of imprisonment?

Finding: The defendant, LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, was not under sentence of imprisonment when he committed the murder of ROBERT STURMFELS.

2. Whether the defendant, LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, has been previously convicted of another capital offense or of a felony involving the use or threat of violence to some person?

Finding: The defendant, LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, has previously been convicted of another capital felony, to-wit, First Degree Murder of ROBERT STURMFELS, and has previously been convicted of other felonies involving the use of violence or threat of violence to persons, to-wit, Attempted First Degree Murder of Joseph M. Rector, with a firearm, Armed Robbery of Joseph M. Rector and Mary N. Rector with a firearm, and Burglary of the Dwelling of Joseph M. Rector and Mary N. Rector. On June 15, 1990 in the above styled case, a jury verdict was rendered finding the defendant guilty as charged of Count III of the Indictment for FIRST DEGREE PREMEDITATED MURDER of ROBERT STURMFELS, Count IV of the Indictment for FIRST DEGREE FELONY MURDER of ROBERT STURMFELS, Count VII of the Indictment for ATTEMPTED FIRST DEGREE MURDER of JOSEPH M. RECTOR, Count IX of the Indictment for ARMED ROBBERY of the RECTOR'S, and Count X of the Indictment for ARMED BURGLARY OF A DWELLING involving the RECTOR'S, and this court on June 15, 1990 adjudicated the defendant guilty of said offenses in open court.

3. Whether the defendant, LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, knowingly created a great risk of death to many persons?

Finding: The defendant, LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, did not create a great risk of death to many persons.

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4. Whether the capital felony was committed while the defendant was engaged in the commission of, or attempt to commit, any robbery or burglary?

Finding: The First Degree Murder of GEORGETTE STURMFELS was committed while the defendant was engaged in the commission of, or attempt to commit, a robbery or burglary on GEORGETTE STURMFELS and/or ROBERT STURMFELS. The evidence shows that ROBERT AND GEORGETTE STURMFELS were aware of the attack upon them and attempted to run. Once the defendant had incapacitated his victims by shooting both of them, he ransacked the house and took property from different rooms of the STURMFELS dwelling. He also checked ROBERT STURMFELS pockets for a wallet or money while he lay on his den floor with four bullets in his body, including a close range shot to the head.

5. Whether the crime for which the defendant is to be sentenced was committed for the purpose of avoiding or preventing a lawful arrest?

Finding: The court finds that there is insufficient evidence in the record to show the purpose of the killing of GEORGETTE STURMFELS was to avoid or prevent arrest.

6. Whether the crime for which the defendant is to be sentenced was committed for pecuniary gain?

Finding: The court in addition finds that there is overwhelming evidence in the record to support the finding that the First Degree Murder of GEORGETTE STURMFELS was committed for pecuniary gain. The murder was committed during the commission of a robbery and burglary. After having shot and executed ROBERT AND GEORGETTE STURMFELS, the defendant promptly closed the curtains to the house and began to search through the pockets of ROBERT STURMFELS, drawers in all rooms of the house, closets in the bedrooms and halls of the house. The defendant literally tore the house up looking for property of value that he could take. The defendant took cash, miscellaneous jewelry, GEORGETTE STURMFELS' purse, two living room lamps, two vases, a grandfather type pendulum wall clock, a camera, an iron, and a battery from the Sturmels vehicle. After having transferred all the stolen property to his own car, the defendant went looking for other victims and property. Within hours of the killing of and theft from the Sturmels the defendant went to a dwelling in the same general area and after having shot into the house and scaring the victims, the Rector's away, he entered their house and after having looked through various areas of the house stole the wallet and pants belonging to Joseph Rector and took the purse belonging to Mary N. Rector.

No more than one hour after the Rector's were shot at, the defendant went to a relative's house with property from the Sturmels, indicating that he had obtained Christmas gifts for his girlfriend. Not later than Christmas of 1989, and within approximately 5 days of the Sturmels death items of property from the Sturmels house were given by the defendant to his girlfriend as Christmas presents.

7. Whether the capital felony was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws?

Finding: The defendant, LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, did not disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.

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8. Whether the crime for which the defendant is to be sentenced was especially wicked, evil, atrocious, or cruel?

Finding: The evidence shows that the First Degree Murder of GEORGETTE STURMFELS was wicked, evil, atrocious or cruel. GEORGETTE STURMFELS saw and realized that her husband had been shot and they began to run from their den. Mr. Sturmels was shot again and fell to the floor. GEORGETTE STURMFELS was shot in the cheek and she fell to the ground. The shot was not fatal but caused bleeding in her mouth. Again, the defendant shot her. The shot hit her head but did not break her skull. She then began to crawl out of the den into the hallway of her house for protection. She was isolated and helpless. As she crawled into the hallway she was shot a third time. She crawled down the hallway as the defendant made his way around the side of the house. As she sat in the hallway holding her bloody face the defendant shot from outside a french door at the other end of the house through a Christmas tree striking her in the chest. The bullet went across and down her body striking vital organs and immediate medical treatment could have saved her. The defendant then entered the house and shot her in the head.

9. Whether the capital offense was a homicide and was committed in a cold, calculated and premeditated manner without any pretense of moral or legal justification?

Finding: The First Degree Murder of GEORGETTE STURMFELS was committed in a cold, calculated and premeditated manner without any pretense of moral or legal justification. In advance of his trip from Bunnell to Palm Coast the defendant loaded his car with the .22 caliber rifle and cutters for telephone wires if needed. He actually cut the phone line at the Rector house prior to his commission of the offenses. In addition, the defendant carried and outfitted himself with gloves, a scarf, goggles, and a camouflage shirt. The victim, GEORGETTE STURMFELS, did not provoke the defendant nor did he offer any resistance to the defendant. The defendant coldly and calmly thought and thought of the killing as he circled the house of the STURMFELS, finally he shot only to have a misfire. He thought some more and circled the house again and then shot GEORGETTE STURMFELS three times near the den, and once from the other end of the house through the Christmas tree striking her chest. Finally, the defendant entered the house and from close range shot a bullet into GEORGETTE STURMFELS' head causing the fatal blow.

10. Whether the victim of the capital felony was a law enforcement officer engaged in the performance of his legal duties?

Finding: The victim of this capital felony, GEORGETTE STURMFELS, was not a law enforcement officer engaged in the performance of his legal duties.

11. Whether the victim of the capital felony was an elected or public official engaged in the performance of his official duties and the motive was related to the victim's official duties?

Finding: The victim of this capital felony, GEORGETTE STURMFELS, was not an elected or public official engaged in the performance of his official duties and the motive was not related to the victim's official duties?

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B. MITIGATING CIRCUMSTANCES

1. Whether the defendant has no significant history of prior criminal activity?

Finding: The court does not find this as a mitigating factor. The defendant has two prior convictions for Burglary of a Structure.

2. Whether the capital felony of First Degree Murder of GEORGETTE STURMFELS was committed while the defendant was under the influence of extreme mental or emotional disturbance?

Finding: The murder of GEORGETTE STURMFELS was committed while the defendant was under the influence of extreme mental or emotional disturbance. Although the court finds that the defendant's capacity was not impaired, the court finds that the expert testimony combined with the other facts of the case support this finding. The court notes that it has relied on the same expert testimony for the purpose of determining the factor involving substantially impaired capacity.

3. Whether the victim, GEORGETTE STURMFELS, was a participant in the defendant's conduct or consented to the act?

Finding: The victim, GEORGETTE STURMFELS, was not a participant in the defendant's conduct, nor did the victim consent to his act. The evidence showed that the victim was merely sitting in her den with her husband when the shots were fired from outside his home through the den window and curtain into the den striking, and shortly thereafter, killing ROBERT STURMFELS.

4. Whether the defendant was an accomplice in the murder of GEORGETTE STURMFELS which was committed by another person and the defendant's conduct was relatively minor?

Finding: The defendant, LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, was the sole perpetrator of the murder of GEORGETTE STURMFELS. There was no evidence of any accomplice in the actual killing of GEORGETTE STURMFELS and the evidence shows that the defendant was the planner and sole actor in the killing.

5. Whether the defendant acted under extreme duress or under the substantial domination of another person?

Finding: There is no evidence of any form of duress or substantial domination by any other person. All the evidence shows that the defendant, LOUIS BERNARD GASKIN, a/k/a LOUIS BERNARD GASKINS, was the only person who contemplated and then carried out the murder of GEORGETTE STURMFELS.

6. Was the capacity of the defendant's ability to appreciate the criminality of his conduct or to conform his conduct to the requirements of law substantially impaired?

Finding: The of his conduct or to conforming his conduct to the requirements of law. Although there was expert testimony introduced regarding this factor this court has considered that testimony in making a finding of extreme mental disturbance as a mitigating circumstance. The

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evidence in the case shows the defendant, though crudely planned, carried out the murder in a calculated fashion in order to obtain property from his victim's and then hid the property at a friend's house. The evidence shows the defendant knew at the time he was committing the murder that his conduct was criminal and had the capacity to conform his conduct to the requirements of law. His careful plan to avoid detection was designed so he would not be caught for the crime and suffer the criminal penalties. The facts do not support any implication that the defendant was engaged in a ninja type assassination.

7. Was the age of the defendant at the time of the offense a factor?

Finding: The court does not find the defendant's age at the time of the commission of First Degree Murder of GEORGETTE STRUMFELS a mitigating factor. The defendant was 22 years old at the time of the commission of the capital felony.

8. Was the defendant the product of an abused or deprived childhood such as to constitute a mitigating factor?

Finding: The court finds as a mitigating factor that the defendant had a deprived childhood.

The court has found that the evidence supports five (5) aggravating circumstances enumerated in subsection (5) of F.S. 921.141, to-wit, (5) (b), (5) (d), (5) (f), (5) (h) and (5) (i). However, the court further notes that it would be improper to utilize the robbery and the burglary at the Stummels to support a finding of both (5) (d) and (5) (f), and therefore the court in the weighing process considers (5) (d) and (5) (f) as a single aggravating circumstance.

After having considered and weighed the aggravating circumstances and mitigating circumstances, the court finds that the mitigating circumstances are insufficient to outweigh the aggravating circumstances which have been found to exist. Furthermore, the court has weighed and considered that any single aggravating circumstance found by this court to exist outweighs all the mitigating factors and supports the imposition of the death penalty in this case.

DATED THIS 19th day of June, 1990 in Bunnell, Flagler County, Florida.

Kim C. Hammond
KIM C. HAMMOND - CIRCUIT JUDGE

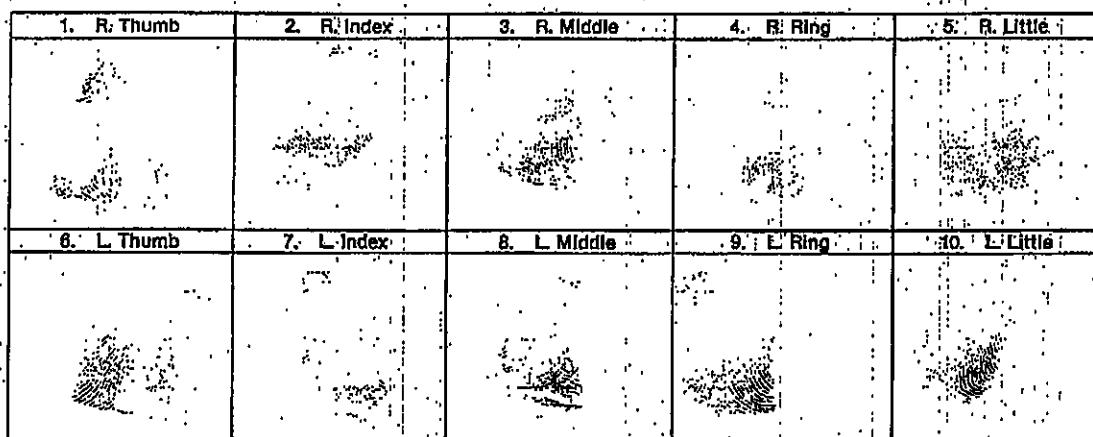
FLAGLER COUNTY, FLORIDA		SO. 01 CT 4
3-1-241-H		
THIS INDIVIDUAL IS NOT AND IS NOT TO BE REGARDED AS A SUSPECT		
27	Set of	Arrest
100	or	Arrest
Record Verified BY STEPHEN B. BARBER		Check Current Nature
By	Date 11-15	

Imposition of Sentence Stayed and Withheld (Check If Applicable) The Court hereby stays and withholds the imposition of sentence as to count(s) _____ and places the Defendant on probation for a period of _____ under the supervision of the Department of Corrections (conditions of probation set forth in separate order.)

Sentence Deferred Until Later Date (Check If Applicable) The Court hereby defers imposition of sentence until _____ (date)

The Defendant in Open Court was advised of his right to appeal from this Judgment by filing notice of appeal with the Clerk of Court within thirty days following the date sentence is imposed or probation is ordered pursuant to this adjudication. The Defendant was also advised of his right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigency.

FINGERPRINTS OF DEFENDANT

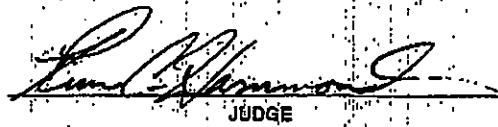


Fingerprints taken by:

Jessie Lee Huff, Deputy Sheriff

Name and Title

DONE AND ORDERED in Open Court at FLAGLER County, Florida, this 19th day of August A.D. 19 90. I HEREBY CERTIFY that the above and foregoing fingerprints are the fingerprints of the Defendant, LOUIS BERNARD GASKIN and that they were placed thereon by said Defendant in my presence in Open Court this date.



JUDGE

Defendant: LOUIS BERNARD GASKINCase Number: 90-01-CFAA M E N D M E N T**SENTENCE**(As to Count V)

The Defendant, being personally before this Court, accompanied by his attorney, RAYMOND CASS, JR., ESQ., APD, and having been adjudicated guilty herein, and the Court having given the Defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why he should not be sentenced as provided by law, and no cause being shown:

and the Court having on _____ deferred imposition of sentence until this date. (date)

(Check either provision, if applicable) and the Court having placed the Defendant on probation and having subsequently revoked the Defendant's probation by separate order entered herein.

IT IS THE SENTENCE OF THE LAW that:

The Defendant pay a fine of \$ _____, plus \$ _____, as the 5% surcharge required by F.S. 980.25.

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

The Defendant is hereby committed to the custody of the Sheriff of _____ County, Florida. (Name of local correction's authority to be inserted at printing, if other than Sheriff)

To be Imprisoned (check one; unmarked sections are inapplicable)

For a term of Natural Life.

For a term of _____.

For an Indeterminate period of 6 months to _____ years.

Followed by a period of _____ on probation under the supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

However, after serving a period of _____ imprisonment, the balance of such sentence shall be suspended and the Defendant shall be placed on probation for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

If "split" sentence complete either of these two paragraphs

SPECIAL PROVISIONS

By appropriate notation, the following provisions apply to the sentence imposed in this section:

Firearm — 3-year mandatory minimum It is further ordered that the 3 year minimum provisions of F.S. 775.087(2) are hereby imposed for the sentence specified in this count, as the Defendant possessed a firearm.

Drug Trafficking — mandatory minimum It is further ordered that the _____ year minimum provisions of F.S. 803.135(1)(A) are hereby imposed for the sentence specified in this count.

Retention of Jurisdiction The Court pursuant to F.S. 947.18(3) retains jurisdiction over the defendant for review of any Parole Commission release order for the period of _____. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.

Habitual Offender The Defendant is adjudged a habitual offender and has been sentenced to an extended term in this sentence in accordance with the provisions of F.S. 775.084(4)(a). The requisite findings by the court are set forth in a separate order or stated on the record in open court.

Jail Credit It is further ordered that the Defendant shall be allowed a total of 223 credit for such time as he has been incarcerated prior to imposition of this sentence. Such credit reflects the following periods of incarceration (optional):

Consecutive/Concurrent

It is further ordered that the sentence imposed for this count shall run consecutive to concurrent with (check one) the sentence set forth in count all other counts above.

Defendant LOUIS BERNARD GASKINCase Number 90-01-CFA

A M E N D E D

SENTENCE

(As to Count TX.)

The Defendant, being personally before this Court, accompanied by his attorney, RAYMOND CASS, JR.
ESO, APD, and having been adjudicated guilty herein, and the Court having given the Defendant an opportunity
 to be heard and to offer matters in mitigation of sentence, and to show cause why he should not be sentenced as provided by
 law, and no cause being shown.

and the Court having on _____ deferred imposition of sentence
 until this date. (date)

(Check either provision
 if applicable) and the Court having placed the Defendant on probation and having subsequently revoked
 the Defendant's probation by separate order entered herein.

IT IS THE SENTENCE OF THE LAW that:

The Defendant pay a fine of \$_____, plus \$_____ as the 5% surcharge required by F.S. 950.25.
 The Defendant is hereby committed to the custody of the Department of Corrections
 The Defendant is hereby committed to the custody of the Sheriff of _____ County, Florida
 (Name of local corrections authority to be inserted at printing, if other than Sheriff)

To be Imprisoned (check one; unmarked sections are inapplicable):

For a term of Natural Life
 For a term of _____
 For an indeterminate period of 6 months to _____ years
 Followed by a period of _____ on probation under the supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.
 However, after serving a period of _____ Imprisonment in the balance of such sentence shall be suspended and the Defendant shall be placed on probation for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

SPECIAL PROVISIONS:

By appropriate notation, the following provisions apply to the sentence imposed in this section:

Firearm — 3 year mandatory minimum It is further ordered that the 3 year minimum provisions of F.S. 775.087(2) are hereby imposed for the sentence specified in this count, as the Defendant possessed a firearm.
Drug Trafficking — mandatory minimum It is further ordered that the _____ year minimum provisions of F.S. 893.135(1) (X) are hereby imposed for the sentence specified in this count.
Retention of Jurisdiction The Court pursuant to F.S. 947.16(3) retains jurisdiction over the defendant for review of any Parole Commission release order for the period of _____. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.
Habitual Offender The Defendant is adjudged a habitual offender and has been sentenced to an extended term in this sentence in accordance with the provisions of F.S. 775.084(4)(a). The requisite findings by the court are set forth in a separate order or stated on the record in open court.
Jail Credit It is further ordered that the Defendant shall be allowed a total of 223 DAYS credit for such time as he has been incarcerated prior to imposition of his sentence. Such credit reflects the following periods of incarceration (optional):

Consecutive/Concurrent

It is further ordered that the sentence imposed for this count shall run consecutive to concurrent with (check one) the sentence set forth in counts all other counts above.

Defendant LOUIS BERNARD GASKINCase Number: 90-01-CFAConsecutive/Concurrent
(As to other convictions)It is further ordered that the composite term of all sentences imposed for the counts specified in this order shall run consecutive to concurrent with (check one) the following: Any active sentence being served. Specific sentences: __________
_____In the event the above sentence is to the Department of Corrections, the Sheriff of FLAGLER County, Florida is hereby ordered and directed to deliver the Defendant to the Department of Corrections together with a copy of this Judgment and Sentence.

The Defendant in Open Court was advised of his right to appeal from this Sentence by filing notice of appeal within thirty days from this date with the Clerk of this Court, and the Defendant's right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigency.

In Imposing the above sentence, the Court further recommends

_____DONE AND ORDERED in Open Court at FLAGLER, County, Florida, this 9th day of AUGUST, A.D. 1990.

FLAGLER COUNTY, FLORIDA, NO. 90-01-CFA
 11:58 A.M.
 14 day of August, 1990.
 File Instrument filed and Recorded.
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 Record verified SHELTON B. BARBER
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o. _____

IN THE SUPREME COURT OF THE UNITED STATES

**LOUIS B. GASKIN,
PETITIONER,**

VS.

**STATE OF FLORIDA,
RESPONDENT.**

On Petition for a Writ of Certiorari to the Supreme Court of Florida

APPENDIX TO THE PETITION FOR WRIT OF CERTIORARI

**THIS IS A CAPITAL CASE
WITH AN EXECUTION SCHEDULED FOR
WEDNESDAY, APRIL 12, 2023, AT 6:00 PM**

APPENDIX D

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591 So.2d 917
Supreme Court of Florida.

Louis B. GASKIN, Appellant,
v.
STATE of Florida, Appellee.

No. 76326.

|
Dec. 5, 1991.

Synopsis

Defendant was convicted of first-degree murder and related offenses, following jury trial in the Circuit Court, Flagler County, Kim C. Hammond, J., and defendant appealed. The Supreme Court, Barkett, J., held that: (1) defendant was not entitled to change of venue; (2) trial court improperly convicted defendant of both premeditated and felony-murder for each death; and (3) trial court properly considered aggravating and mitigating circumstances.

Affirmed in part, vacated in part, and remanded.

Attorneys and Law Firms

***918** James B. Gibson, Public Defender and Christopher S. Quarles, Asst. Public Defender, Seventh Judicial Circuit, Daytona Beach, for appellant.

Robert A. Butterworth, Atty. Gen. and Barbara C. Davis, Asst. Atty. Gen., Daytona Beach, for appellee.

Opinion

BARKETT, Justice.

Louis B. Gaskin appeals from convictions for first-degree murder and related offenses and sentences, including the death penalty.¹

The convictions arise from events occurring on the night of December 20, 1989, when Gaskin drove from Bunnell to Palm Coast and spotted a light in the house of the victims, Robert and Georgette Sturmels. Gaskin parked his car in the woods and, with a loaded gun, approached the house. Through a window he saw the Sturmels sitting in their den. After circling the house a number of times, Gaskin shot Mr. Sturmels twice through the window. As Mrs. Sturmels rose to leave the room, Gaskin shot her and then shot Mr. Sturmels a third time. Mrs. Sturmels crawled into the hallway, and Gaskin pursued her around the house until he saw her through the door and shot her again. Gaskin then pulled out a screen, broke the window, and entered the home. He fired one more bullet into each of the Sturmels' heads and covered the bodies with blankets. Gaskin then went through the house taking lamps, video cassette recorders, some cash, and jewelry.

Gaskin then proceeded to the home of Joseph and Mary Rector, whom he again spied through a window sitting in their den. While Gaskin cut their phone lines, the Rectors went to bed and turned out the lights. In an effort to rouse Mr. Rector, Gaskin threw a log and some rocks at the house. When Mr. Rector rose to investigate, Gaskin shot him from outside the house. The Rectors managed to get to their car and drive

to the hospital in spite of additional shots fired at their car as they sped away. Gaskin then burglarized the house.

Gaskin's involvement in the shootings was brought to the attention of the authorities by Alfonso Golden, cousin of Gaskin's girlfriend. The night of the murders, Gaskin had appeared at Golden's home and asked to leave some "Christmas presents." Gaskin told Golden that he had "jacked" the presents and left the victims "stiff." Golden learned of the robberies and murders after watching the news and called the authorities to report what he knew. The property that had been left with Golden was subsequently identified as belonging to the Sturmels.

Gaskin was arrested on December 30, and a search of Gaskin's home produced more of the stolen items. After signing a rights-waiver form, Gaskin confessed to the crimes and directed the authorities to further evidence of the crime in a nearby canal.

The jury found Gaskin guilty of two counts of first-degree murder in the death of Robert Sturmels (premeditated and felony murder); two counts of first-degree murder in the death of Georgette Sturmels (premeditated and first-degree murder); one count of armed robbery of the Sturmels; one count of burglary of the Sturmels' home; one count of attempted first-degree murder of Joseph Rector; one count of armed robbery of the Rectors; and one count of burglary of the Rector's home. The jury found Gaskin not guilty of attempted first-degree murder of Mary Rector.

During the penalty phase, the State introduced ballistics evidence by firing various types of bullets from the rifle used in the murders to demonstrate that the ammunition Gaskin chose to use in the murders ***919** supports a finding that the murders were heinous, atrocious, or cruel. The defense introduced the testimony of Janet Morris, Gaskin's cousin, who testified that she and Gaskin were raised by their great-grandparents, who were very strict, and that Gaskin never gave anyone any trouble during his formative years. The jury recommended death for both murders by a vote of eight to four. In addition to the penalty phase testimony, the judge was given a certified judgment and sentence for an unrelated burglary, a copy of Gaskin's statement, and a copy of a psychiatric report by Dr. Jack Rotstein to consider in sentencing Gaskin.

The trial judge found in aggravation that (1) both murders were committed in a cold, calculated, and premeditated manner;² (2) Gaskin had previously been convicted of another capital offense or of a felony involving the use or threat of violence;³ and (3) that the murders were committed while the defendant was engaged in the commission of a robbery or burglary.⁴ Additionally, the trial court found that the murder of Georgette Sturmels was especially wicked, evil, atrocious, or cruel.⁵ The court found in mitigation of both murders that (1) the murders were committed while Gaskin was under the influence of extreme mental or emotional disturbance; and (2) that Gaskin had a deprived childhood. The court concluded that the aggravating circumstances outweighed the mitigating circumstances and imposed the death penalty for both murders.

The court also sentenced Gaskin to consecutive life terms for the noncapital offenses.

Gaskin raises numerous claims of error which he argues require a reversal of his convictions or sentences. Gaskin first argues that the trial court erroneously denied his motion for a change of venue because pretrial publicity precluded selection of a fair and impartial jury. "An application for change of venue is addressed to a court's sound discretion, and a trial court's ruling will not be reversed absent a palpable abuse of discretion." *Davis v. State*, 461 So.2d 67, 69 (Fla.1984), *cert. denied*, 473 U.S. 913, 105 S.Ct. 3540, 87 L.Ed.2d 663 (1985). The test for changing venue is

"whether the general state of mind of the inhabitants of a community is so infected by knowledge of the incident and accompanying prejudice, bias, and preconceived opinions that jurors could not possibly put these matters out of their minds and try the case solely on the evidence presented in the courtroom."

Id. (quoting *Manning v. State*, 378 So.2d 274, 276 (Fla.1979)). The trial court did not abuse its discretion in finding that the test had not been met here. While many of the venire admitted to knowing that the crime had been committed, those with any significant knowledge were excused. All jurors who served affirmatively and unequivocally stated that they could put aside any prior knowledge and decide the case solely on the evidence presented at trial. There is nothing in the record that suggests otherwise.

Moreover, the judge liberally excused jurors for cause when challenged, and he granted each attorney an additional five peremptory challenges, indicating that he would give more

if needed. When the list of jurors chosen to sit was read, defense counsel did not request additional peremptory challenges and did not even use all the peremptory challenges available. The court also granted the defense motion for individual voir dire regarding publicity and feelings on capital punishment, and the court allowed wide latitude in the questioning. There is nothing in the record to *920 indicate defense counsel was precluded from striking any undesirable juror. Nor has Gaskin demonstrated he was otherwise prejudiced by any knowledge the jurors may have possessed. Accordingly, on the facts presented here we find no abuse of discretion in the judge's denial of the change of venue motion.

Gaskin next argues that the trial court erred in adjudicating him guilty of both premeditated and felony murder for each of the two deaths for a total of four convictions. We agree that each death will support only one adjudication. *See Lamb v. State*, 532 So.2d 1051 (Fla.1988); *Houser v. State*, 474 So.2d 1193 (Fla.1985). Accordingly, we vacate one adjudication for first-degree murder for each victim.

We reject Gaskin's claim that his constitutional rights were violated because the court stenographer did not record certain proceedings at the bench. *See Bruno v. State*, 574 So.2d 76, 81 (Fla.), *cert. denied*, 502 U.S. 834, 112 S.Ct. 112, 116 L.Ed.2d 81 (1991). We also reject Gaskin's claim that the trial court erred in instructing the jury on the definition of reasonable doubt. *See, e.g., Brown v. State*, 565 So.2d 304 (Fla.), *cert. denied*, 498 U.S. 992, 111 S.Ct. 537, 112 L.Ed.2d 547 (1990). We likewise find no merit to Gaskin's claim

that the trial court erred in admitting several pieces of physical evidence. The trial court has great latitude in determining the relevance of evidence, and such determinations will not be disturbed absent an abuse of discretion. *See Hardwick v. State*, 521 So.2d 1071 (Fla.), cert. denied, 488 U.S. 871, 109 S.Ct. 185, 102 L.Ed.2d 154 (1988). We have reviewed the record and find no abuse in the admission of the evidence in question.

Turning to the penalty phase, we find no reversible error in Gaskin's claim that the trial judge made an impermissible comment on the evidence during the penalty phase. We also reject without discussion Gaskin's multiple assertions regarding the constitutionality of the capital-sentencing statute as each of his arguments has previously been decided adversely to his position.

Gaskin next argues that the record fails to reflect Gaskin's presence at the firing range where the State presented its ballistics evidence. To the contrary, the record reflects that the trial judge specifically stated that Gaskin was present in a patrol car with the windows rolled down so he could observe the demonstration. Defense counsel did not dispute this statement or otherwise object to the proceeding. We thus reject this claim.

Finally, Gaskin alleges error in the consideration of aggravating and mitigating circumstances. Gaskin first argues that the trial court erred in finding that the murder of Georgette Sturmels was heinous, atrocious, or cruel.⁶ We find no abuse of discretion in the trial court's conclusion.

According to Gaskin's own statement, after twice shooting Mr. Sturmels, "his wife realized what was going on." She tried to run away but Gaskin shot her. Gaskin turned back to Mr. Sturmels, who was still standing, and shot him again. When Mrs. Sturmels attempted to crawl out of view, Gaskin shot her still again as she continued to try to crawl to safety. Gaskin then tracked her around the house until he got her in view through the other doors that faced the hallway. "She was sitting there holding her head, looking at the blood." Gaskin then shot her again, and she fell over. While Mrs. Sturmels lay there "groggily or dying," Gaskin subsequently entered the home through a window. Although Mr. Sturmels was already dead, Gaskin "shot him again in the head at point-blank range." He then sought out Mrs. Sturmels and "shot her again in the head at point-blank range."

The facts show that Mrs. Sturmels knew her husband was being murdered, and that she must have contemplated her own death. She was shot at least twice before crawling down the hall where she *921 watched blood pour from her wounds. She must have been in physical pain and mentally aware of her impending death as Gaskin first disabled her and then stalked her throughout the house. We find under the totality of facts presented here that the trial court did not abuse its discretion in concluding that this circumstance had been proven beyond a reasonable doubt. We note that even if this aggravating circumstance had not been found, we are persuaded that the trial court would have nevertheless imposed the death penalty, as it did for the death of Mr. Sturmels in the absence of this aggravating circumstance.

Gaskin also alleges that the trial court erred in its consideration of the mitigating evidence regarding his mental state. We find no error in the trial court's assessment. Dr. Rotstein, the psychiatrist, reported the following diagnosis:

Schizotypal personality disorder appears to best fit this man's behavior. He is uncomfortable around others socially. He has preoccupations which almost or perhaps do reach the level of delusions and has perceptual experiences which sound very strongly like auditory hallucinations. He also describes episodes of Derealization or Depersonalization during the assault on the Rectors.

Dr. Rotstein concluded that at the time of the crimes, Gaskin was unable to conform his conduct to normal human behavior. However, the trial court concluded that the more accurate classification would be "extreme mental or emotional disturbance." We find that the trial court adequately considered all the mental mitigating evidence. The sentencing order clearly indicates a careful analysis of the psychiatric report in relation to the totality of the evidence:

The murder[s were] committed while the defendant was under the influence of extreme mental or emotional disturbance. Although the court finds that the defendant's capacity was not impaired the court finds that the expert testimony combined with the other facts of the case support this finding. The court notes that it relied on the same expert testimony for the purpose of determining the factor involving substantially impaired capacity.

In rejecting that the defendant was unable to conform his conduct to the requirements of law, the judge explained in detail:

The defendant was capable of appreciating the criminality of his conduct or of conforming his conduct to the requirements of law. Although there was expert testimony introduced regarding this factor this court has considered that testimony in making a finding of extreme mental disturbance as a mitigating circumstance. The evidence in the case shows the defendant, though crudely planned, carried out the murder[s] in a calculated fashion in order to obtain property from his victim's [sic] and then hid the property at a friend's house. The evidence shows the defendant knew at the time he was committing the murder that his conduct was criminal and had the capacity to conform his conduct to the requirements of law. His careful plan to avoid detection was designed so he would not be caught for the crime and suffer the criminal penalties. The facts do not support any implication that the defendant was engaged in a ninja type assassination.

Dr. Rotstein's report as a whole contains sufficient information to support the trial court's conclusion that Gaskin was able to appreciate the criminality of his conduct or to conform his conduct to normal human behavior despite being mentally and emotionally disturbed. For example, Gaskin told Dr. Rotstein:

The devil had more of a hold than God did. I knew that I was wrong. I wasn't insane. There was no insanity involved.

In other parts of the report, Gaskin described his thoughts just prior to the murders:

[T]he guy was on the Lazy Boy watching TV, the woman was on the sofa. I walked around a few more times. The devil was telling me to kill him. God was telling me to go back home. I was trying to decide what to do.

....

***922** I aimed at the guy. God said "No"; the devil said "yes." I pulled the trigger. There was no bullet in the chamber. I breathed a sigh of relief and also a sigh of disappointment. I walked around four or five times more. I couldn't make up my mind. I aimed the gun. I couldn't do it. I wasn't afraid. The shots wouldn't be heard.

We find no error in the judge's treatment of the mental mitigating evidence or in the

weighing of the aggravating and mitigating circumstances.

Accordingly, we affirm the convictions, except for two of the four adjudications for murder, and the sentences, including two sentences of death. We remand for proceedings consistent with this opinion.

It is so ordered.

SHAW, C.J., and OVERTON, McDONALD, GRIMES, KOGAN and HARDING, JJ., concur.

All Citations

591 So.2d 917, 16 Fla. L. Weekly S762

Footnotes

1 We have jurisdiction pursuant to article V, section 3(b)(1) of the Florida Constitution.

2 See § 921.141(5)(i), Fla.Stat. (1987).

3 *Id.* § 921.141(5)(b). The trial judge supported this factor in Robert Sturmfel's death with the contemporaneous convictions for the offenses involving the Rectors and Georgette Sturmfel; and in Georgette Sturmfel's death, with the contemporaneous convictions involving the Rectors and Robert Sturmfel.

4 *Id.* § 921.141(5)(d).

5 *Id.* § 921.141(5)(h). The trial judge found this factor inapplicable to Robert Sturmfel because he was shot in rapid succession and died quickly.

6 This argument does not apply to the death sentence imposed for Robert Sturmfel because the trial court did not find the aggravating circumstance of heinous, atrocious, or cruel. See *supra* note 5.

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

**LOUIS B. GASKIN,
PETITIONER,**

VS.

**STATE OF FLORIDA,
RESPONDENT.**

On Petition for a Writ of Certiorari to the Supreme Court of Florida

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APPENDIX E

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112 S.Ct. 3022
Supreme Court of the United States

Louis B. GASKIN, petitioner,
v.
FLORIDA.

No. 91-7634.

|
June 29, 1992
|

Rehearing Denied Sept. 4, 1992.

|
See 505 U.S. 1244, 113 S.Ct. 22.

Synopsis

Case below, 591 So.2d 917.

Opinion

On petition for writ of certiorari to the Supreme Court of Florida. The motion of petitioner for leave to proceed *in forma pauperis* and the petition for writ of certiorari are granted. The judgment is vacated and the case is remanded to the Supreme Court of Florida for further consideration in light of *Espinosa v. Florida*, 505 U.S. 1079, 112 S.Ct. 2926, 120 L.Ed.2d 854 (1992).

All Citations

505 U.S. 1216, 112 S.Ct. 3022 (Mem), 120 L.Ed.2d 894, 60 USLW 3878

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

**LOUIS B. GASKIN,
PETITIONER,**

VS.

**STATE OF FLORIDA,
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APPENDIX F

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615 So.2d 679
Supreme Court of Florida.

Louis B. GASKIN, Appellant,
v.

STATE of Florida, Appellee.

No. 76326.

|

March 18, 1993.

Synopsis

Defendant was convicted in the Circuit Court, Flagler County, Kim C. Hammond, J., of first-degree murder and was sentenced to death. Defendant appealed. The Supreme Court, 591 So.2d 917, affirmed in part, vacated in part and remanded. On writ of certiorari, the United States Supreme Court, 112 S.Ct. 3022, vacated judgment and remanded. On remand, the Florida Supreme Court, Barkett, C.J., held that issue of unconstitutional vagueness as to jury instructions involving “especially heinous, atrocious, or cruel” aggravating factor was not preserved for review where defendant did not object to vagueness of instruction nor request special instruction for circumstance.

Sentences affirmed.

Attorneys and Law Firms

***680** James B. Gibson, Public Defender and Christopher S. Quarles, Asst. Public Defender, Chief, Capital Appeals, Seventh Judicial Circuit, Daytona Beach, for appellant.

Robert A. Butterworth, Atty. Gen., Carolyn M. Snurkowski, Asst. Atty. Gen., Tallahassee, and

Kellie A. Nielan, Asst. Atty. Gen., Daytona Beach, for appellee.

Opinion

BARKETT, Chief Justice.

We have *Gaskin v. State*, 591 So.2d 917 (Fla.1991), *vacated*, 505 U.S. 1216, 112 S.Ct. 3022, 120 L.Ed.2d 894 (1992), on remand from the United States Supreme Court for further consideration in light of *Espinosa v. Florida*, 505 U.S. 1079, 112 S.Ct. 2926, 120 L.Ed.2d 854 (1992).¹

The facts of this case are fully set forth in our previous opinion. The United States Supreme Court in *Espinosa* found insufficient our former jury instruction on the “especially heinous, atrocious, or cruel” aggravating factor.² We must determine what effect, if any, the reading of that same instruction had in Gaskin's case.

We find that although Gaskin argued at trial against the instruction for the “cold, calculated and premeditated” aggravating circumstance,³ he did not object to the vagueness of the especially heinous, atrocious, or cruel aggravating circumstance instruction at trial, nor did he request a special instruction for this circumstance. Thus, the issue of unconstitutional vagueness as to the jury instruction struck down in *Espinosa* has not been preserved for review. See, e.g., *Ragsdale v. State*, 609 So.2d 10 (Fla.1992).

In addition, were we to address the issue, the reading of the insufficient heinous, atrocious, or cruel aggravating circumstance instruction as it relates to the sentence for the murder of

Georgette Sturmels would be harmless error beyond a reasonable doubt, because the reading of this vague instruction could not have affected the jury's recommendation of death in this case. Therefore, for the reasons stated here and in our earlier decision, we again affirm the two death sentences.

OVERTON, McDONALD, SHAW, GRIMES, KOGAN and HARDING, JJ., concur.

All Citations

615 So.2d 679, 18 Fla. L. Weekly S161

It is so ordered.

Footnotes

- 1 We have jurisdiction pursuant to article V, section 3(b)(1), Florida Constitution.
- 2 See § 921.141(5)(h), Fla.Stat. (1987).
- 3 See § 921.141(5)(i), Fla.Stat. (1987).

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

**LOUIS B. GASKIN,
PETITIONER,**

VS.

**STATE OF FLORIDA,
RESPONDENT.**

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APPENDIX G

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IN THE SUPREME COURT OF FLORIDA

JUN 25 2019

Louis B. Gaskin,
Petitioner,

BY: FOR MAILING

v.

Case No.:
L.t. Case No.: 1990-CF01

Mark S. Inch, Secretary
Fla. Dept. of Corr.
Respondent.

JUL -1 2019

Petition To invoke All Writs Jurisdiction

Petitioner, Louis B. Gaskin, *pro se*, pursuant to Rule 9.100, Fla. R. Crim. P., respectfully petitions this Court for a Constitutional Writ directed to the Seventh Judicial Circuit Court. In support shows:

I.
Basis for Invoking Jurisdiction

This Court has jurisdiction to issue all writs necessary to the complete exercise of its jurisdiction. Art. V, §3(b)(7) Fla. Const. and Fla. R. App. P. 9.030 (a)(3). Florida Senate v. Graham, 412 So.2d 360 (Fla. 1982)

II.
Statement of Case and Facts

On December 5, 1991, this Court reversed two (2) of the four death penalty sentence convictions Petitioner had on the two (2) victims in the aforementioned case numbers; which were issued by Circuit Court Judge Kim C. Hammond,

pursuant to the Jury Advisory Panel vote of 8-4. The decision of this Court became final when the Court denied rehearing.

The effect of the reversal was to require the circuit court to correct the judgment and sentence, to wit: The Florida Supreme Court affirmed Gaskins convictions and sentence but vacated two (2) of the adjudications for first degree murder, one for each victim, leaving in place two(2) convictions for first degree murder. The Court did not stipulate what whether the felony murder(s) or premeditated murder(s) were vacated. At this time the Supreme Court remanded the case for proceedings consistent with that holding.

No corrected judgment and sentence was ever entered by the court until August 12, 2014. The court(s) of appeal and post-conviction lacked subject matter jurisdiction from December 5, 1991—August 12, 2014. Pursuant to the issued mandate. As a direct result, the August 12, 2014 corrected judgment and sentence specifically qualified the petitioner for Hurst and Mosely relief. See Hurst v. State, 202 So.3d 40 (Fla. 2016). Mosely v. State, 209 So.3d 1248 (Fla. 2016). Which the court(s) have erroneously failed to apply in this immediate cause.

III. The Nature of the Relief Sought

The nature of the relief sought by this petition is a constitutional writ commanding the Seventh Judicial Circuit Court in and for Flagler County to accept the petitioner's successive motion for post-conviction relief, conduct fair and

impartial review of the subject matter jurisdiction and Hurst/Moseley claims for relief by issuing a writ of mandamus to the Seventh Judicial Circuit Court.

IV.
Argument

This Court and the federal courts of appeal fundamentally established that “jurisdiction is the power conferred on a court by the sovereign to take cognizance of the subject matter of litigation and the parties brought before it and to hear and determine the issues and render judgment.” Vickers v. Pelsey, 779 So.2d 629 (Fla. DCA 2001); Dyer v. Battle, 168 So.2d 175, 176 (Fla. 2d DCA 1964). It’s the court and not the particular judges thereof, that has jurisdiction over a particular cause, controversy and parties thereto. Kruckenberg v. Powell, 422 So.2d 994, 996 (Fla. 5th DCA 1982). “All circuit court judges are empowered to hear and determine any case within it’s jurisdiction.” Payette v. Clark, 554 So.2d 630, 633 (Fla. 2d DCA 1990). The Florida and federal courts have not ever wavered from this position.

Pursuant to this Court’s remand of the Petitioner’s case in part, for proceedings consistent with the court’s mandate at Gaskin v. State, 591 So.2d 917 (Fla. 1991). No other court with the exception of the immediate court of review following affirmation of the Court’s in part mandate could invoke jurisdiction; ‘except’ the Seventh Judicial Circuit Court in order to comply with this Court’s

mandate.¹ In this instant matter, no other court had “the power to act” or the authority to adjudicate the subject matter, Bush v. State, So.2d 1207, 1211 (Fla. 2006); J.P. v. J.N., 225 So.3d 410 (Fla. 5th DCA 2017).

This Court as well as its sister courts have clearly held consistently, that jurisdiction cannot be conferred by consent or acquiescence. State Dept. of Hwy. Safety and Motor Vehicles v. Scott, 538 So.2d 785 (Fla. 2nd DCA 1991). The most fundamental of dictates established by Florida law dictates:

“The Supreme Court shall adopt rules for the practice and procedure in all courts including the time for seeking appellate review ... The transfer to the Court having jurisdiction of any proceeding when the jurisdiction of another court has been improvidently invoked.”

Article V §2(a). Florida Constitution.

Pursuant to Florida’s bedrock principle regarding jurisdiction no court could entertain/determine any appellate matter until the court of original jurisdiction, to wit: The Seventh Judicial Court in and for Flagler County complied with this Court’s Mandate in Gaskin v. State, 591 So.2d 917 (Fla. 1991) which did not occur in this instance until August 14, 2014. (Appx. ‘A’)

As the Petitioner could not confer by consent or acquiescence jurisdiction until compliance with this Court’s Mandate. The appellate and collateral relief determinations which followed this order all inappropriately and illegally invoked

¹ On note, this Court’s mandate for remand in part was “neither” nullified or otherwise disturbed by the U.S. Supreme Court or any corresponding Court of Appeals.

the jurisdiction of the Courts which absent corrected/accurate sentence and records consisted of inaccurate determinations of facts and law applicable in this instance, to wit: January 17, 1997, denial of motion for post-conviction relief; Gaskin v. State, 737 So.2d 1243 (Fla. 1999); August 12, 2000, denial of post-conviction relief on remand; Gaskin v. State, 822 So.2d 1243 (Fla. 2002); Gaskin v. Secretary Dept. of Corr., 494 F.3d 997 (11th Cir. 2007) September 10, 2015, denial of successive motion to vacate judgment and conviction and December 21, 2018, Order striking Defendant's pro se pleadings.

Although other remedies might also be appropriate in this situation. The Petitioner submits that all writs petition is the only means in which jurisdiction of the court can be invoked by a pro se petitioner under the sentence of death. The Petitioner further submits that the jurisdiction of this Court can be protected by the issuance of a constitutional writ under the all writs provision of Article V §3(b)(7). The purpose of such a writ is to protect the existing and future jurisdiction of the appellate court. See: State ex. rel. Chiles v. Public Employees Relations Com'n, 630 So.2d 1093 (Fla. 1994); Florida Senate v. Graham, 412 So.2d 360 (Fla. 1982); Couse v. Canal Authority, 209 So.2d 865 (Fla. 1968).

The Seventh Judicial Circuit Courts failure or refusal to accept the fundamentally sound and well documented Hurst/Mosely claims submitted in good faith pursuant to this Court's precedent and the Florida Constitution warrants writ

issuance. The cause not being final until after compliance with the mandate for remand until August 14, 2014, insurmountably establishes that ‘no’ court other than the Mandated Seventh Judicial Circuit Court in and For Flagler County had jurisdiction until the remand mandate was complied with. Rendering the Petitioners case not final until August 14, 2014.

Therefore, the writ is of legal necessity to correctly preserve and insure that the Petitioner who received who received a corrected resentencing to death under Florida’s former, unconstitutional capital sentencing scheme after Ring should not suffer due to the United State’s Supreme Court’s fourteen year delay in applying Ring to Florida or in order to conceal the fact that no court had jurisdiction to entertain such until the remand mandate was complied with.

Considerations of fairness and uniformity make it very “difficult to justify depriving a person of his liberty. Or his life, under process no longer considered acceptable and no longer applied to indistinguishable cases.” Witt v. State, 387 So.2d 922, 925 (Fla. 1980); Mosely v. State, 209 So.3d 1248 (Fla. 2016).

The Seventh Judicial Circuit Court’s refusal to accept or review the Petitioner’s successive motion for post-conviction relief which conclusively addressed the fundamental lack of subject matter jurisdiction, as well as the applicable Hurst/Mosely grounds for relief; is an absolute interference with the jurisdiction of this Court. The Petitioner respectfully submits that this Court should

issue a constitutional writ directing the Seventh Judicial Court to issue a writ of mandamus.

This 24 day of June 2019.

Submitted:

Louis B. Gaskin

Louis B. Gaskin, 751166

Pro Se, Petitioner

Union Correctional Inst.

P.O. Box 1000

Raiford, FL 32083

OATH/VERIFICATION

I have read the foregoing "Petition to Invoke All Writs Jurisdiction" and the facts and corresponding precedent herein is true and correct. This 24 day of June 2019.

Louis B. Gaskin

Louis B. Gaskin, 751166

Pro Se, Petitioner

Certificate of Service

I hereby certify that a true and correct copy of the foregoing petition to invoke all writs jurisdiction was forwarded by U.S. Mail to: Office of the State Attorney, 251 N. Ridgewood Avenue, Daytona Beach, Florida 32114. Capital Collateral Regional Counsel, Middle District, 12937 North Telecom Parkway, Temple Terrace, Florida 33673-0907; Office of the Attorney General, the Capitol, PL-01, Tallahassee, FL 32399-1050; Florida Supreme Court Building, 500 S. Duval Street, Tallahassee, Florida 32399-1925, this 24 day of June 2019.

Submitted:

Mr. Louis B. Gaskin

Louis B. Gaskin, 751166

Pro Se, Petitioner

Union Correctional Inst.

P.O. Box 1000

Raiford, FL 32083

Certificate of Compliance

I hereby certify that this petition complies with the font requirements of Rule 9.100(1) of the Florida Rules of Appellate Procedure. This 24 day of June 2019.

Mr. Louis B. Gaskin

Louis B. Gaskin, 751166

Pro Se, Petitioner

APPENDIX

“A”

IN THE CIRCUIT COURT, SEVENTH JUDICIAL CIRCUIT,
IN AND FOR FLAGLER COUNTY, FLORIDA

STATE OF FLORIDA

-vs-

CASE NO.: 1990 CF 01

LOUIS BERNARD GASKIN, a/k/a

DIVISION 50: Judge J. David Walsh

LOUIS BERNARD GASKINS,
Defendant.

CORRECTED JUDGMENT AND SENTENCE
VACATING THE DEATH PENALTY IMPOSED IN COUNTS II AND IV OF THE
INDICTMENT AND THE ADJUDICATION OF GUILT IN SAID COUNTS

This cause is before this Court for a Corrected Judgment and Sentence in compliance with a Mandate issued by the Florida Supreme Court. *Gaskin v. State*, 591 So.2d 917 (Fla. 1991). Having reviewed the record and being otherwise fully advised in the premises this Court finds as follows:

In 1991 Defendant Gaskin was convicted of four counts of first-degree murder (two counts of premeditated and two counts of felony murder) involving two victims, one count of attempted first degree murder, two counts of armed robbery and two counts of burglary. As for the murder convictions, the jury recommended a sentence of death by a vote of eight to four. The trial court followed the jury's recommendation, finding four aggravating circumstances, including that both murders were committed in a cold, calculated and premeditated manner, and two mitigating circumstances. The Florida Supreme Court affirmed Gaskin's convictions and sentence but vacated two of the adjudications for first-degree murder, one for each victim, leaving in place two convictions for first degree murder. See *Gaskin*, 591 So.2d at 920. At that

time the Supreme Court also remanded the case for proceedings consistent with that holding. No corrected judgment and sentence was ever entered by this court.¹

Clearly only one homicide conviction and sentence may be imposed for a single death.

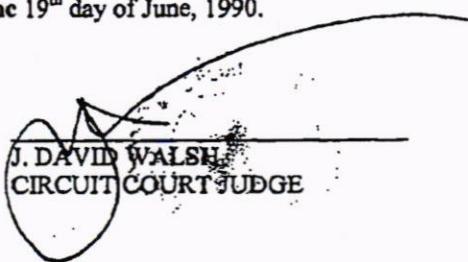
Gaskin citing *Lamb v. State*, 532 So.2d 1051 (Fla.1988); *Houser v. State*, 474 So.2d 1193 (Fla.1985). Therefore, it is

ORDERED and ADJUDGED the felony murder adjudications and the resultant deaths sentences set forth in Counts II and IV of the Indictment are hereby Vacated. The remainder of the June 19th, 1990 Judgment and Sentence remains in full force and effect. It is further,

ORDERED and ADJUDGED the August 13, 1990 Amended Judgment and Sentence is Vacated. It is further,

ORDERED and ADJUDGED that the Clerk of Court file this order in the official records and provide certified copies to any required agencies for use in compliance with the requirements of the law.

DONE and ORDERED in Chambers, Kim C. Hammond Justice Center, Bunnell, Florida this 12th day of August, 2014, nunc pro tunc 19th day of June, 1990.



J. DAVID WALSH
CIRCUIT COURT JUDGE

Copies to:
Office of the State Attorney

Department of Correction
ATTN: Bureau of Admissions and Release
501 S. Calhoun Street
Tallahassee, Florida 32399-2500

¹ An amended Judgment and sentence was entered on August 13, 1990, prior to the Supreme Court's ruling. Inexplicably, Count III, premeditated murder of the second victim, was changed to burglary of dwelling with a firearm. That offense had already been addressed by the adjudication of guilt and sentence in Count VI. That amendment will also be vacated herein.

GASKINS, LOUIS vs. STATE OF FLORIDA
LT. CASE NO: 1990 CF 000001
HT. CASE NO: SC15-1884

Michelle Witworth, Capital Punishment Review
Florida Commission on Offender Review
4070 Esplanade Way
Tallahassee, Florida 32399-2450

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