APPENDIX

APPENDIX

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APPENDIX A

SUPREME COURT OF OHIO

No. 2021-Ohio-2473

[Filed: July 21, 2021]

THE STATE OF OHIO,	)
APPELLEE,	)
V.	)
BRINKMAN,	)
APPELLANT.	)

NOTICE

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SLIP OPINION NO. 2021-OHIO-2473

THE STATE OF OHIO, APPELLEE,
***V.* BRINKMAN, APPELLANT.**

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State v. Brinkman*, Slip Opinion No. 2021-Ohio-2473.]

Criminal law—Aggravated murder—Crim.R. 11(C)(2)(c)—Trial court did not advise capital defendant at time guilty plea was entered that by pleading guilty, defendant was waiving rights to confront witnesses against him and to have guilt proved beyond a reasonable doubt—Because trial court accepted defendant's guilty plea without first strictly complying with Crim.R. 11(C)(2)(c), the plea is invalid—Convictions and sentences vacated and cause remanded to the trial court for new proceedings.

(No. 2019-0303—Submitted March 4, 2021—Decided July 21, 2021.)

APPEAL from the Court of Common Pleas of Cuyahoga County,

No. CR-17-618342-A.

O'CONNOR, C.J.

{¶ 1} Appellant, George C. Brinkman, was charged in the Cuyahoga County Common Pleas Court with counts of aggravated murder with capital specifications, aggravated burglary, kidnapping, and abuse of a corpse regarding the murder of a woman and her two daughters. Brinkman pleaded guilty to all the charges and specifications, and a three-judge panel sentenced him to death. Because the trial court

accepted his guilty plea without first strictly complying with Crim.R. 11(C)(2)(c), we conclude that Brinkman's guilty plea is invalid. We therefore vacate Brinkman's convictions and sentences and remand the cause to the trial court for new proceedings.

I. Relevant Background

{¶ 2} Brinkman initially pleaded not guilty to all the charges and specifications. However, during a pretrial hearing, Brinkman informed the trial court that he wanted to change his plea to guilty.

A. The first plea colloquy

{¶ 3} The trial court held a plea hearing on November 5, 2018, during which the following colloquy between Brinkman and the court took place:

> The Court: Are you satisfied with the representation you have received from your attorneys?
>
> The Defendant: Yes.
>
> The Court: Do you understand that by entering pleas of guilty you will be giving up certain constitutional rights?
>
> The Defendant: Yes, sir.
>
> The Court: All right. I am going to go through your rights with you, sir, and ask you if you understand each one. When I ask you if you do understand, answer yes out loud. If you don't

understand, say no, or feel free at any point to interrupt me and I'll explain it to you.

First of all, sir, do you understand you have a right to an attorney? If you cannot afford an attorney, one will be appointed to represent you at no cost to yourself.

The Defendant: Yes.

The Court: Do you understand you have a right to a trial by a jury or to a judge?

The Defendant: Yes.

The Court: Do you understand you have a right to use the Court's power of compulsory process through a subpoena to compel witnesses to come to court and testify on your behalf?

The Defendant: Yes.

The Court: Do you also understand you have a right to remain silent and not testify and no one could hold it against you that you did not testify, nor could anyone make a comment about your silence to the jury?

The Defendant: Yes.

{¶ 4} The trial court then read aloud each offense to which Brinkman was entering a plea of guilty and the possible sentences for each offense. Brinkman entered a plea of guilty to each offense, after which the trial court stated:

> All right. At this point, the record should reflect that the Court does accept the pleas, finds that they are knowingly and voluntarily, with a full understanding of [Brinkman's] rights, entered at this point.
>
> * * *
>
> If the record is unclear, we've accepted the plea, haven't entered any judgment at this point. We need to have the hearing.

{¶ 5} Because Brinkman had pleaded guilty to aggravated murder with death specifications, the case proceeded to a hearing before a three-judge panel pursuant to R.C. 2945.06 and Crim.R. 11(C)(3). From November 5 to 7, the state presented its case in chief, calling numerous witnesses and presenting exhibits to the panel. The state rested its case, subject to the admission of its exhibits, on November 7.

B. The second plea colloquy

{¶ 6} Two days later, on November 9, the trial court noted on the record that it had reviewed a transcript of the plea colloquy and "noticed that there were some omissions that were not thoroughly covered." The court then informed Brinkman that it must ask him "a couple of questions like we did on Monday," after which the following colloquy occurred:

> The Court: First of all, you understand that by your guilty plea you're giving up your

constitutional rights with respect to a trial? Do you understand that?

The Defendant: Yes, sir.

The Court: And that includes a trial by jury or to the judge. Do you understand this?

The Defendant: Yes sir.

The Court: And you're giving up your right to that jury trial in which 12 jurors must unanimously find the evidence true beyond a reasonable doubt. Do you understand that?

The Defendant: Yes sir.

The Court: And that you have a right to use this Court's power of compulsory process through a subpoena to compel witnesses to come to court and testify in your behalf. Do you understand that?

The Defendant: Yes sir.

The Court: Do you also understand you have a right to have the State, through its prosecuting attorney, prove your guilt by evidence beyond a reasonable doubt, and your attorneys would have the opportunity to confront and cross-examine each and every witness the State would bring forward? Do you understand you're giving that up?

The Defendant: Yes, sir.

The Court: Do you also understand you have a right to remain silent and not testify and no

one could hold it against you that you did not testify, nor make any comment about it to the jury that you did not testify? Do you understand that?

The Defendant: Yes, sir.

The Court: And I think we very thoroughly went over all the offenses, and you did indicate you understood those and the possible consequences of this guilty plea.

Do you have any questions about any of these things we've talked about?

The Defendant: No, sir.

The Court: All right. And so hopefully that will—anything else, [Assistant Prosecutor]?

[Assistant Prosecutor]: I think we missed the right to confront witnesses, Your Honor.

The Court: Okay. I'll say—I think I said that, but I'll—I'll make sure. I'll say it again.

That you do have a right to have the State, through its prosecuting attorney, prove your guilt by evidence beyond a reasonable doubt, and your attorneys would have the opportunity to confront and cross-examine each and every witness the State would bring forward?

The Defendant: Yes, sir.

The Court: And you are presumed innocent until, in fact, the State proves you otherwise?

The Defendant: Yes, sir.

The Court: Okay. Is that satisfactory to everyone?

[Defense Counsel]: Yes, Your Honor.

[Assistant Prosecutor]: Yes, Your Honor.

[Second Defense Counsel]: Yes, Your Honor.

{¶ 7} Following this second colloquy, the three-judge panel ruled on the admissibility of the state's exhibits, heard the state's closing arguments, and entered findings of guilt on all the counts and specifications. At no point did the trial court ask Brinkman to reenter his guilty plea. The court sentenced Brinkman to death for each of the three capital offenses and a consecutive, aggregate prison term of 47 years for the noncapital offenses.

{¶ 8} Brinkman appealed his convictions and sentences to this court as of right, presenting 13 propositions of law.

II. Analysis

{¶ 9} In proposition of law No. II, Brinkman argues that the trial court failed to comply with Crim.R. 11(C)(2)(c) prior to accepting his plea, thereby rendering his guilty plea invalid. More specifically, Brinkman contends that the trial court did not advise him at the time that he entered his plea and the court accepted it, that by pleading guilty he was waiving his constitutional rights to confront the witnesses against

him and to have the state prove his guilt beyond a reasonable doubt.

A. A trial court must strictly comply with Crim.R. 11(C)(2)(c)

{¶ 10} A criminal defendant's choice to enter a plea of guilty is a serious decision. *State v. Clark*, 119 Ohio St.3d 239, 2008-Ohio-3748, 893 N.E.2d 462, ¶ 25. "Due process requires that a defendant's plea be made knowingly, intelligently, and voluntarily; otherwise, the defendant's plea is invalid." *State v. Bishop*, 156 Ohio St.3d 156, 2018-Ohio-5132, 124 N.E.3d 766, ¶ 10 (lead opinion), citing *Clark* at ¶ 25.

{¶ 11} Crim.R. 11(C)(2) governs the process that a trial court must follow before accepting a plea of guilty to a felony charge. *Bishop* at ¶ 11 (lead opinion). Most relevant here, Crim.R. 11(C)(2)(c) requires the court to notify the defendant that he has certain constitutional rights and to determine whether he understands that by pleading guilty, he is waiving those rights. The court may not accept a guilty plea without first doing the following:

> Informing the defendant and determining that the defendant understands that by the plea the defendant is waiving the rights to jury trial, to confront witnesses against him or her, to have compulsory process for obtaining witnesses in the defendant's favor, and to require the state to prove the defendant's guilt beyond a reasonable doubt at a trial at which the defendant cannot be compelled to testify against himself or herself.

Id. Crim.R. 11(C)(2)(c) requires the court to communicate this information so that the defendant can make an intelligent and voluntary decision whether to plead guilty. *State v. Miller*, 159 Ohio St.3d 447, 2020-Ohio-1420, 151 N.E.3d 617, ¶ 18, citing *State v. Veney*, 120 Ohio St.3d 176, 2008-Ohio-5200, 897 N.E.2d 621, ¶ 18.

{¶ 12} In *Veney*, the trial court did not advise the defendant that by entering a guilty plea, he would waive his constitutional right to have the state prove his guilt beyond a reasonable doubt at trial. *Id.* at ¶ 3-4, 30. We held that a trial court is required to strictly comply with Crim.R. 11(C)(2)(c) and that its failure to do so invalidates the plea. *Veney* at ¶ 32. We explained that "[a]lthough the trial court may vary slightly from the literal wording of the rule in the colloquy, the court cannot simply rely on other sources to convey these rights to the defendant." *Id.* at ¶ 29. Because the record in that case showed that the trial court had "plainly failed to orally inform [the defendant] of his constitutional right to require the state to prove his guilt beyond a reasonable doubt," the plea was invalid. *Id.* at ¶ 30. We recently reaffirmed that a trial court must strictly comply with Crim.R. 11(C)(2)(c) before accepting a defendant's guilty plea and that its failure to notify the defendant of his constitutional rights under that rule "amounts to plain error," *Miller* at ¶ 13, that "cannot be deemed harmless," *id.* at ¶ 16.

B. The trial court did not strictly comply with Crim.R. 11(C)(2)(c)

{¶ 13} The state concedes the fact that during the first plea colloquy on November 5, 2018, the trial court did not advise Brinkman of his rights to confront the witnesses against him and to have the state prove his guilt beyond a reasonable doubt. Nevertheless, it asserts that the trial court complied with Crim.R. 11(C)(2)(c) because, in its view, the court did not accept Brinkman's guilty plea until *after* it had conducted the second colloquy, during which the court advised Brinkman of the constitutional rights that it had failed to inform him of during the first colloquy.

{¶ 14} First and foremost, the record does not support what the state suggests. After the first colloquy on November 5, the trial court explicitly stated, "At this point, the record should reflect that the Court does accept the pleas, finds that they are knowingly and voluntarily, with a full understanding of [Brinkman's] rights, entered at this point. * * * [W]e've accepted the plea, haven't entered any judgment at this point." Thus, the record reflects that the trial court indeed accepted Brinkman's guilty plea after the flawed first colloquy and before the second colloquy.

{¶ 15} Moreover, R.C. 2945.06, which addresses guilty pleas in capital cases, does not support the state's contention that the trial court accepted Brinkman's guilty plea only after the second colloquy on November 9. That statute provides, "*If the accused pleads guilty of aggravated murder*, a court composed of three judges shall examine the witnesses, determine whether the accused is guilty of aggravated murder or

any other offense, and pronounce sentence accordingly." (Emphasis added.) Nothing within R.C. 2945.06 indicates that a guilty plea is not accepted until after the three-judge panel enters its findings of guilt. Rather, R.C. 2945.06 contemplates that a trial court's acceptance of a guilty plea precedes the presentation of evidence. Crim.R. 11(C)(3)(c) similarly bolsters this conclusion, stating, "If the indictment contains one or more specifications that are not dismissed *upon acceptance* of a plea of guilty * * *, or if pleas of guilty * * * to both the charge and one or more specifications *are accepted*," then the three-judge panel must, "if the offense is determined to have been aggravated murder, proceed as provided by law to determine the presence or absence of the specified aggravating circumstances and of mitigating circumstances, and impose sentence accordingly." (Emphasis added.) *See State v. Post*, 32 Ohio St.3d 380, 392-393, 513 N.E.2d 754 (1987) (explaining that "Crim.R. 11(C)(3)(c), when read in pari materia with R.C. 2945.06, requires the three-judge panel, *upon acceptance* of a no contest plea to the charge of aggravated murder, to hear evidence in deciding whether the accused is guilty of aggravated murder beyond a reasonable doubt [emphasis added]"), *overruled in part on other grounds*, *State v. McDermott*, 72 Ohio St.3d 570, 574, 651 N.E.2d 985 (1995); *see also State v. Green*, 81 Ohio St.3d 100, 104, 689 N.E.2d 556 (1998).

{¶ 16} The state's argument that the court accepted Brinkman's guilty plea only after the second colloquy also overlooks an essential requirement of Crim.R. 11(C)(2)(c)—that the trial court inform the defendant

and ensure that the defendant understands that "by the plea the defendant is waiving" certain constitutional rights. It is clear from the record that the trial court did not advise Brinkman at the time that he entered his plea that by pleading guilty he was waiving his rights to confront the witnesses against him and to have the state prove his guilt beyond a reasonable doubt. The trial court therefore failed to strictly comply with Crim.R. 11(C)(2)(c) before it accepted Brinkman's guilty plea. Consequently, Brinkman did not have a "full understanding" that by pleading guilty, he would waive those two constitutional rights. *State v. Ballard*, 66 Ohio St.2d 473, 478, 423 N.E.2d 115 (1981) ("The criminal defendant's interest is having a full understanding of what rights he waives by pleading guilty. This interest is best protected when the trial court fully informs the defendant what those rights are"). Thus, Brinkman's guilty plea is invalid. *See Veney*, 120 Ohio St.3d 176, 2008-Ohio-5200, 897 N.E.2d 621, at ¶ 32.

{¶ 17} The trial court did not advise Brinkman of his constitutional rights to confront the witnesses against him and to have the state prove his guilt beyond a reasonable doubt until November 9, *four days after* he had entered and the court had accepted his guilty plea and after the state had presented evidence of Brinkman's guilt. The state contends that vacating the guilty plea would ignore the purpose of Crim.R. 11(C) and that holding that the trial court did not strictly comply here "would elevate form over substance," because nothing in the record indicates that Brinkman's plea was not knowingly, intelligently, and voluntarily made. But the purpose of Crim.R.

11(C)(2) is to require the trial court to "convey to the defendant certain information so that he can make a voluntary and intelligent decision whether to plead guilty" in the first place. *Veney* at ¶ 18. Informing the defendant of his constitutional rights *after* he has already pleaded guilty does not support that interest. That is because when a defendant enters a plea of guilty he "simultaneously waives" his constitutional rights. *McCarthy v. United States*, 394 U.S. 459, 466, 89 S.Ct. 1166, 22 L.Ed.2d 418 (1969); *see also Class v. United States*, ___ U.S. ___, 138 S.Ct. 798, 805, 200 L.Ed.2d 37 (2018); *Ballard* at 478 ("a guilty plea is constitutionally infirm when the defendant is not informed in a reasonable manner *at the time of entering* his guilty plea" of his constitutional rights [emphasis added]). Here, the trial court accepted the guilty plea following an incomplete colloquy that omitted important warnings to Brinkman regarding his waiver of his constitutional rights. Additionally, the trial court never asked Brinkman during the second colloquy whether he still wished to plead guilty. As we emphasized in *Miller*, strict compliance with Crim.R. 11(C)(2)(c) is required when informing a defendant of his constitutional rights; substantial compliance will not do. 159 Ohio St.3d 447, 2020-Ohio-1420, 151 N.E.3d 617, at ¶ 16. We therefore reject the state's "form over substance" argument.

{¶ 18} We also reject the state's arguments that if Brinkman was confused about his waiver of his rights, then either he or his attorneys could have brought that issue to the panel's attention or sought to withdraw his guilty plea after the second colloquy. This court's decision in *Veney* makes clear, however, that a "court

cannot simply rely on other sources to convey [constitutional] rights to the defendant." *Veney* at ¶ 29. And Crim.R. 11(C)(2)(c) makes clear that it is the trial court that "*shall not* accept a plea of guilty" without first informing the defendant of the constitutional rights he will waive by pleading guilty and determining that the defendant understands the waiver. (Emphasis added.) "It is the trial court's duty, therefore, to ensure that a defendant 'has a full understanding of what the plea connotes and of its consequence.'" *State v. Montgomery*, 148 Ohio St.3d 347, 2016-Ohio-5487, 71 N.E.3d 180, ¶ 40, quoting *Boykin v. Alabama*, 395 U.S. 238, 244, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); *see also State v. Romero*, 156 Ohio St.3d 468, 2019-Ohio-1839, 129 N.E.3d 404, ¶ 18 ("A court's duty to ensure that pleas are entered knowingly and voluntarily arises from the constitutional guarantee of due process").

{¶ 19} Based on this record, we hold that the trial court's failure to strictly comply with Crim.R. 11(C)(2)(c) before accepting Brinkman's guilty plea renders his plea invalid.

{¶ 20} We pause to note that this is not the first time that this court has addressed a trial court's obligations under Crim.R. 11. *See, e.g.*, *Veney*, 120 Ohio St.3d 176, 2008-Ohio-5200, 897 N.E.2d 621; *Clark*, 119 Ohio St.3d 239, 2008-Ohio-3748, 893 N.E.2d 462; *State v. Sarkozy*, 117 Ohio St.3d 86, 2008-Ohio-509, 881 N.E.2d 1224. Because of the essential constitutional rights that a defendant waives by pleading guilty, this court, time and time again, has emphasized the seriousness of the plea decision and the importance of a trial court's compliance with Crim.R. 11(C). *See*, *e.g.*,

Ballard, 66 Ohio St.2d at 478-479, 423 N.E.2d 115; *Clark* at ¶ 25; *Veney* at ¶ 21; *Bishop*, 156 Ohio St.3d 156, 2018-Ohio-5132, 124 N.E.3d 766, at ¶ 10 (lead opinion); *Miller*, 159 Ohio St.3d 447, 2020-Ohio-1420, 151 N.E.3d 617, at ¶ 17. And as we have said before regarding trial courts' erroneous application of Crim.R. 11, "[i]n each instance, the trial court error was easily avoidable." *Clark* at ¶ 28. We therefore reiterate the advice that we have provided before: "The best way to ensure that pleas are entered knowingly and voluntarily is to simply follow the requirements of Crim.R. 11 when deciding whether to accept a plea agreement." *Id*. at ¶ 29. The court should use Crim.R. 11 as a checklist and explain the information to the defendant in a manner that can be easily understood, *see Miller* at ¶ 18 and *Veney* at ¶ 27. By paying particular attention to Crim.R. 11, the trial court can avoid errors such as failing to adequately explain constitutional rights either completely or partially.

{¶ 21} While there are benefits to pleading guilty, the defendant nevertheless loses several constitutional rights. *Clark* at ¶ 25, citing *Boykin*, 395 U.S. at 243, 89 S.Ct. 1709, 23 L.Ed.2d 274. Thus, "the exchange of certainty for some of the most fundamental protections in the criminal justice system will not be permitted unless the defendant is fully informed of the consequences of his or her plea." *Id*. "What is at stake for an accused facing death or imprisonment demands the utmost solicitude of which courts are capable in canvassing the matter with the accused to make sure he has a full understanding of what the plea connotes and of its consequence." *Boykin* at 243-244.

{¶ 22} Here, the trial court, as well as counsel for the state and the defense, failed to adhere to the level of diligence expected in, and essential to, our criminal-justice system. The trial court failed to strictly comply with the requirements for a valid plea colloquy under Crim.R. 11(C)(2)(c) and neither the prosecutor nor defense counsel brought the omitted constitutional rights to the court's attention at the time of the initial plea colloquy. And even after the court noticed its omissions, during the second colloquy, it provided Brinkman with the bare minimum. It did not engage Brinkman in a full Crim.R. 11(C)(2) colloquy and never requested that Brinkman reenter his guilty plea. The court provided counsel for the state and the defense with the opportunity to approve or object to the colloquy and each agreed that it was "satisfactory." This inattention is impermissible, especially in a case such as this in which a death sentence is on the line. *See, e.g.*, *Clark* at ¶ 41 ("Fundamental fairness requires courts to hold themselves to exceedingly high standards when explaining the law to defendants who have waived constitutional rights").

III. Conclusion

{¶ 23} Because the trial court failed to strictly comply with Crim.R. 11(C)(2)(c) before accepting Brinkman's guilty plea, we sustain proposition of law No. II. As a result, we need not reach Brinkman's remaining propositions of law. We vacate Brinkman's convictions and sentences and remand the cause to the Cuyahoga County Common Pleas Court for new proceedings.

Judgment vacated
and cause remanded.

KENNEDY, FISCHER, DEWINE, DONNELLY, STEWART, and BRUNNER, JJ., concur.

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Brandon A. Piteo, Katherine E. Mullin, and Saleh S. Awadallah, Assistant Prosecuting Attorneys, for appellee.

Mark A. Stanton, Cuyahoga County Public Defender, and Jeffrey M. Gamso, Erika B. Cunliffe, and Noelle A. Powell, Assistant Public Defenders; and Kevin M. Cafferkey, for appellant.

APPENDIX B

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

Case No: CR-17-618342-A

[Filed: January 18, 2019]

THE STATE OF OHIO Plaintiff	
GEORGE C BRINKMAN Defendant	

Judge: PETER J CORRIGAN

INDICT: 2903.01 AGGRAVATED MURDER /FMS /CCS
2903.01 AGGRAVATED MURDER /FMS /CCS
2903.01 AGGRAVATED MURDER /FMS /CCS
ADDITIONAL COUNTS...

JOURNAL ENTRY

THE COURT ISSUES THIS SENTENCING OPINION PURSUANT TO R.C. 2929.03(F).

JOURNAL ENTRY SIGNED BY 3-JUDGE PANEL, ATTACHED AND ORDERED FILED. OSJ.

01/18/2019
CPEDB 01/18/2019 09:11:49

_____

Judge Signature Date

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

Case No: CR-17-618342

STATE OF OHIO

PLAINTIFF

vs.

GEORGE C. BRINKMAN

DEFENDANT

JUDGES PETER J.CORRIGAN
TIMOTHY P. MCCORMICK
MICHAEL P. SHAUGHNESSY

JOURNAL ENTRY

This Court issues this sentencing opinion pursuant to R.C. 2929.03(F).

On June 27, 2017, the Cuyahoga County Grand Jury returned a thirteen count indictment against defendant George C. Brinkman for events occurring on June 10, 2017 in North Royalton, Ohio that resulted in the deaths of Suzanne P. Taylor and her two daughters, Taylor Lynne Pifer and Kylie Elizabeth Pifer. Counts one, two, three, four, five, and six charged defendant with aggravated murder in violation of R.C. 2903.01(A) with two felony murder specifications in violation of R.C. 2929.04(A)(7) and one course of

conduct specification in violation of R.C. 2929.04(A)(5). Count seven charged defendant with aggravated burglary in violation of R.C. 2911.11(A)(1). Counts eight, nine, and ten charged defendant with kidnapping in violation of R.C. 2905.01(A)(3). Counts eleven and twelve charged defendant with violating R.C. 2927.01(B), gross abuse of a corpse. On November 5, 2018, the State of Ohio dismissed without prejudice and with no exchange of any consideration from defendant, the course of conduct specification with respect to the purposeful killing of Rogell Eugene John II and Roberta Ray John in Stark County alleged in connection with the purposeful killing of Ms. Taylor and her daughters in North Royalton.

Defendant waived his right to a jury trial, pled guilty to all the counts in the indictment, and requested that the matter be tried to a three judge panel pursuant to R.C. 2945.06. A three judge panel was randomly selected and after hearing testimony and taking evidence, the panel found defendant guilty of each count and the death penalty specifications.

Aggravating Circumstances

The panel found defendant guilty of three different death penalty specifications attached to each count of aggravated murder unanimously beyond a reasonable doubt:

1. A course of conduct specification under R.C. 2929.04(A)(5) for killing each victim as part of a course of conduct involving the purposeful killing of two or more persons;

2. A felony-murder specification under R.C. 2929.04(A)(7) for killing each victim while committing an aggravated burglary, and the defendant was both the principal offender in the commission of the aggravated murder and committed the aggravated murder with prior calculation and design; and,

3. A felony-murder specification under R.C. 2929.04(A)(7) for killing each victim while committing a kidnapping, and the defendant was both the principal offender in the commission of the aggravated murder and committed the aggravated murder with prior calculation and design.

The evidence and reasonable inferences from the evidence presented to the panel support these findings.

The defendant purchased two knives, one of which had a curved tip, from Walmart on June 9th. On June 10th at 7:11 am he purchased a knife sharpener, razor, cargo pants, and work shirt. He withdrew $1,600 from his bank account. He contacted Suzanne Taylor by text message asking to see her that day, but insisted the girls (Taylor and Kylie) not be present. In these texts defendant insisted on seeing Suzanne alone, acknowledged that he knew she was "mad" at him, and indicated that he was leaving the area and that she would not have to worry about him anymore.

Defendant's nine-hour video statement provided some details and the panel considered these statements weighing the credibility of defendant and the evidence gathered by investigators. Defendant at first denied all

knowledge of these crimes. Eventually, defendant confessed to the murders. Defendant claimed to arrive at Suzanne's house and Taylor and Kylie were present. He gave the girls cash to go shopping and asked them to leave so he could speak with Suzanne alone.

Independent evidence revealed that the girls went shopping in Strongsville, got a flat tire and had to call Suzanne's former boyfriend, Scott Plamel, for assistance. Scott arrived to help the girls at 3:00 pm. Suzanne had recently ended the relationship with Scott. Scott testified he bought a new tire for the vehicle and the girls received text messages to return home, and Scott received a call from Suzanne and was told to send the girls home but not to come to the home. Scott received Suzanne's call at 3:08 pm, the last known contact she had with anyone other than defendant. At 4:26 pm Scott texted Suzanne's phone that he was coming over, he did arrive at the home with a bouquet of flowers at approximately 4:30 pm. At the home he saw defendant's van, Suzanne, Taylor and Kylie's cars. He found the house locked, windows closed, curtains drawn and did not receive any response to his knocks. He testified that this was unusual because the house did not have air conditioning, therefore, windows and the door would usually be open or unlocked as that day was warm. Because the house was quiet, he believed they may have left with someone else in another vehicle. Scott left the flowers outside the side entrance door.

No text messages, phone calls or social media posting occurred from the devices of the victims after 5:00 pm on June 10th. Suzanne, Taylor and Kylie were

discovered dead June 11th arranged on a bed in the back bedroom face down. Suzanne had a mortal wound incising her throat musculature, jugular vein, carotid artery, thyroid and cricoid cartilage, and a gaping wound of her airway. Taylor and Kylie were found to have been asphyxiated. Kylie also suffered cervical compression injuries. Defendant admitted to police that he restrained all the women with black zip ties or duct tape, forced them onto the bed, stabbed Suzanne in the back of her throat, then slit her throat. He admitted he smothered Taylor by forcing her head onto a pillow restricting her ability to breathe, and strangled Kylie with a phone charger cord. Defendant told police he murdered Suzanne while the daughters were restrained in the same bed. He explained that Suzanne called out that he had killed her after he stabbed her in the back of the throat which caused him to inflict the throat wounds. Suzanne emitted gurgling and choking sounds all of which upset the girls. He then strangled Kylie and then smothered Taylor. At some point defendant cut off a large portion of Suzanne's long hair, which was found outside the bedroom in an open box.

Defendant described the weapon in detail to investigators after his arrest: a knife with a uniquely curved tip. The knife and a t-shirt were never recovered by police, as defendant provided several different versions of what he did after committing the murders with the knives purchased, the knife he claimed to have used to kill Suzanne, and the bloody shirt. Defendant denied that the knives he bought were used in the crime, although one had a uniquely curved tip consistent with his description of the murder weapon.

Police investigators found remnants of black zip ties, blood evidence near Suzanne's body and trace blood evidence in the bathroom. The water meter records indicated a spike in water consumption between 5pm and 8pm on the June 10th. Defendant's DNA was found on the wrists of Kylie, and Suzanne. Two toy guns were found in the bedroom. One of the toy guns contained Suzanne's, Taylor's and defendant's DNA. Suzanne's DNA was found in the bathroom, on both Kylie's wrists and ankles, and on both Taylor's wrists. Suzanne and defendant's DNA was found on an intact engaged zip tie. The remnant of a zip tie that had been engaged then cut contained Suzanne's DNA. The trace evidence forensic scientist found adhesive consistent with pressure sensitive tape commonly referred to as "duct" tape on both of Kylie's wrists. Duct tape adhesive was found near wounds on Suzanne's leg, and Taylor's ankles. No rolls of duct tape were found matching the chemical composition of the adhesive found on either body. Suzanne had injuries to her wrists and ankles consistent with being bound. No other black zip ties were found in the home apart from the ones found in the bedroom. The medical examiner found evidence that Kylie and Taylor's bodies had been manipulated post mortem. The bouquet of flowers was found by police in the home. Several days later when the home was being cleaned, a large mass of Suzanne's hair, the engaged cut zip tie remnant, and the two toy guns were found. The hair had the appearance of a wig and the guns and zip tie were concealed in the bedding and clothes littering the bedroom floor and had not been noticed by police.

After the murders, defendant took steps to conceal his crimes and avoid apprehension, and suggest other suspects and motives. He texted photos of the dogs he was caring for in the home of Amy Szijarto, a family friend who allowed defendant to live in her home. Ms. Szijarto testified she was gone from the home for the weekend and defendant was caring for the pets. She also testified that she was dissatisfied with the arrangement and the defendant recognized her dissatisfaction. She testified that she was going to ask defendant to move out when she returned. Defendant sent the photos giving the impression he was present with the dogs at the time. The photos were sent at 2:53 pm on June 10th. Defendant sent text messages to Suzanne's phone on June 11th suggesting she had a dinner date the evening of the 10th and that he had not seen the girls. He lied to his stepfather that his van was inoperable and could not help him that weekend. He disposed of the murder weapon and bloody shirt and changed his explanation of where he discarded them several times. Trace evidence suggests he cleaned up in the bathroom between 5:00 pm and 8:00 pm. He denied knowing anything about the murders to the police, barricaded himself in Amy's home, and claimed he broke his hand by punching a wall at work. He engaged a television reporter via social media and denied the crimes suggesting North Royalton Police were setting him up.

The defendant took action to leave the area and suggest he was going to commit suicide. Witnesses testified that prior to moving in with Amy the defendant lived in his van. On June 12th defendant purchased new bedding and pillows and set up his van

to live in. He wrote letters to his friend Debbie Stenger, his ex-wife Margaret Berry, and to Amy giving away money and suggesting that losing his mother, brother, Suzanne and the girls, and his diabetes was too much pain and everyone would be better off if he was gone. North Royalton police attempted to have him come in for questioning, but he avoided them. Finally, police learned defendant was in Amy's home in Brunswick and defendant barricaded himself inside threatening suicide with a handgun. The standoff started on June 12th at 9:30 pm and ended on June 13th at 5:30 am. Defendant consumed alcohol and sugar during this period which required him to be transported to the hospital to stabilize his blood sugar.

When defendant made his statement confessing to police, he did not provide information to recover the murder weapon, the clothes he wore, he denied he brought the zip ties and duct tape to Suzanne's home. He claimed that Suzanne had provoked him by insulting him and getting in his personal space too close to his face. He claimed he punched her with enough force to break his hand. He found a knife in the kitchen and forced her into the bedroom. He claimed that he threatened the girls, who had arrived home, with the knife forcing them into the bedroom. He forced them to lie on the bed next to one another, and then had Kylie tie up Suzanne and Taylor with zip ties. He claimed he used duct tape to bind the hands of Kylie. Defendant then climbed on top of Suzanne, rolled her over onto her stomach, and put duct tape around both her legs and Taylor's legs. Although both her hands and feet were bound, defendant claimed Suzanne refused to be quiet. He stabbed Suzanne several times

with the knife in the back of her throat. He claimed that Suzanne further provoked him by mentioning his mother, so he cut her throat. The cries of Suzanne and the sounds from her gaping airway wound upset the girls, so he then smothered Taylor to death with a pillow and strangled Kylie to death with a phone charging cord to make them all quiet. Defendant claimed he just "snapped" when Suzanne provoked him. This explanation as to his motive or lack of motive is not credible.

Although denying any romantic interest in Suzanne who he met in high school, Defendant claimed that he did not approve of Suzanne's dating. He did not approve of Suzanne breaking up with Scott after he took Suzanne and the girls to Disney World. He told police that Suzanne had already planned another date for that very evening which he did not approve of either. He claimed he was visiting Suzanne to tell her he was leaving town and to give the girls $800 each for college and that he left the cash in envelopes at the home. No cash was found in the home. Defendant would soon be asked to leave Amy's home and knew Suzanne's landlord was requiring her to move out. Both girls were planning on being out of the house at college by the end of the summer. Defendant had a conversation that disappointed Suzanne and as a result of the conversation defendant was going away not to bother her again. Thereafter, defendant planned and carried out her murder, murdered the girls who came home and knew he was visiting. Scott was knocking on the door during this time period and defendant needed to silence all of the women. He also set up a plan to disappear, suggesting perhaps suicide but intending to

live in his van and never be found. This course of conduct suggests other selfish motives, prior calculation and design in purposely causing the deaths and as the principal offender in the kidnapping, and aggravated burglary.

Mitigating Evidence Presented

Against the aggravating circumstances, the panel must weigh the statutory mitigating factors contained in R.C. 2929.04(B). The defense argued that factors (B)(2) duress, (B)(3) mental disease or defect, and (B)(7) any other factors all applied to this case. The panel is not limited to these factors, however. The panel may consider other mitigation factors as listed in R.C. 2929.04(B) where appropriate.

Duress

Defense counsel suggests that defendant's background and mental state is evidence that duress was a mitigation factor to be weighed. R.C. 2929.04(B)(2) ("Whether it is unlikely that the offense would have been committed, but for the fact the offender was under duress, coercion, or strong provocation"). The legal definition of duress compared to the evidence herein does not fully support defense counsel's argument. Specifically, the defendant was not forced or threatened and there is no evidence he felt the strong persuasion or domination of another. Likewise, there is no evidence that defendant acted out of necessity. The record lacks evidence that any combination of the aforementioned forces overcame his ability to act as he would ordinarily absent these influences. RC 2929.04(B)(2); *State v. Osborne,* 50 Ohio

St.2d 211, 220, 364 N.E.2d 216 (1977). The evidence does not support defendant was under duress when he committed these crimes.

Mental Disease or Defect

John Fabian, a forensic and clinical psychologist, diagnosed defendant with (1) Major Depressive Disorder, Recurrent, Moderate, without Psychotic Features, (2) Posttraumatic Stress Disorder, (3) Borderline Personality Disorder with Paranoid, Avoidant, and Antisocial Traits, (4) Alcohol Use Disorder, Severe, and (5) Opioid Use Disorder. Upon review of the evidence and relevant law, the panel finds that none of these diagnoses caused defendant to lack the capacity to appreciate the criminality of his criminal conduct, control his actions, or contributed to his actions on June 9th, 10th, 11th, 12th, or 13th. *See* R.C. 2929.04(B)(3); *State v. Mink,* 101 Ohio St. 3d 350, 2004 Ohio 1580, 805 N.E.2d 1064; *State v. Wilson,* 74 Ohio St.3d 381, 1996-Ohio-103, 659 N.E.2d 292; *State v. Biros,* 78 Ohio St.3d 426, 1997-Ohio-204, 678 N.E.2d 891 (defendant's personality disorder, lifelong alcohol dependence, and depression collectively entitled to some, but very little, weight in mitigation).

The panel heard evidence of defendant's depression from several witnesses and Dr. Fabian. Defendant told Dr. Fabian that he had attempted suicide three times, once in 1998, another time approximately 12 years earlier, and during the standoff in which he held a gun to his head to keep the police at bay. The first two times involved his drinking heavily and giving his son up for adoption when his ex-wife remarried. The defendant suggested the loss of his brother to suicide,

and his mother to cancer contributed to his depression at the time and he used those facts in his letters after he committed the murders.

Defendant offered evidence of Post-Traumatic Stress Disorder ("PTSD") from experiencing abuse at the hands of his alcoholic father, witnessing his mother physically and emotionally abused, and being threatened with a firearm. Testimony established that defendant's father was often not home as an over the road trucker and his mother left his father when defendant was ten years old. Dr. Fabian also opined defendant suffered a Borderline Personality Disorder. It was suggested that the depression, the PTSD, and the personality disorder contributed to his decision-making when he "snapped" after comments made by Suzanne. Dr. Fabian also suggested a diagnoses of Alcohol Use Disorder, and Opioid Use Disorder. The panel finds that the evidence does not support that these conditions affected defendant's actions in these crimes. There is no evidence defendant was under the influence of any drug or alcohol at the time of the murders. Defendant denied drinking or using drugs for the past twenty years – up to the stand-off with police when he consumed sugar and alcohol in an obvious attempt to cause a diabetic event. In fact, the panel finds that the evidence does not support the claims that defendant "snapped" in his prior calculation and design of these murders.

Likewise, there is little evidence to suggest defendant's Type I diabetes significantly contributed to the commission of these crimes. *See State v. Allard,* 75 Ohio St.3d 482, 1996-Ohio-208, 663 N.E.2d 1277. Dr.

Pritchard's report offered by defendant concluded that he could not conclude with reasonable medical certainty that medical and psychosocial living conditions contributed to defendant's actions, but could have. Rather, defendant attempted to use his diabetic condition in the stand-off and his correspondence after the murders to his advantage.

Therefore, the panel finds that none of these mental disease or defects, if properly considered such, had a significant impact on defendant's ability to fail to appreciate the criminality of his actions, or control his conduct to conform to the law. See *State v. Stojetz,* 84 Ohio St.3d 452, 705 N.E.2d 329 (1999); *State v. Lawrence,* 44 Ohio St.3d 24, 541 N.E.2d 451 (1989). However, the panel has considered this evidence under RC 2929.04(B)(7) "Any other factors that are relevant to the issue of whether the offender should be sentenced to death".

Lack of Significant Criminal History

Defendant was convicted of two counts of receiving stolen property and one count of unauthorized use of a computer, all felonies, in two separate cases in Cuyahoga County in 1998. He was granted community control sanctions, violated the terms of his probation and was sentenced to one year in prison. In 2000, defendant plead guilty to six felonies: two counts of receiving stolen property, two counts of theft, and two counts of forgery. He received an 11 months prison sentence consecutive to the year sentence in the earlier cases. Defendant served 19 months incarceration and was released in 2001. This panel has considered this and given it some weight in mitigation pursuant to RC

2929.04(B)(5). *See also, State v. Simko,* 71 Ohio St.3d 483, 1994-Ohio-350, 644 N.E.2d 345 (with respect to the statutory mitigating factors, appellant's lack of a significant criminal history is entitled to some weight).

Any Other Factors

The panel has considered all the psychosocial and medical factors proffered by defendant and discussed above and finds these are most properly considered under the mitigation factors contemplated in RC 2929.04(B)(7). However, considering the lack of any connection with these factors to his conduct, and the positive relationships he presented to the panel with Debbie Stenger, Peggy Berry, Jimmie Leon, Carol Bialoskurski, and Jack Holt, these counterbalance and indicate his conformity to societal rules despite a chaotic abusive early childhood, some depression and the loss of his mother and brother. Therefore, the panel has assigned little weight to these factors.

In addition, also considered in this category defendant produced evidence as to his lack of future dangerousness, his confession, guilty plea, employment military history, and remorse.

The panel has assigned some weight to defendant's good behavior pre-trial and during his former incarceration, the fact that he has entered guilty pleas to the allegations, and his history of employment. His military history was negligible, he was injured the second day of basic training and was discharged soon thereafter.

Defendant has also expressed remorse in his videotaped confession and during his unsworn

statement before the panel. However, when scrutinized as mitigation these do not carry much weight in light of the nature and circumstances of the confession.

This defendant staged an eight-hour stand-off with the FBI and local police brandishing a firearm. He vehemently denied for hours his involvement with the homicides. He misled investigators as to the location of the murder weapon and bloody shirt. He cast Suzanne in a light that it was her actions that provoked a deadly reaction beyond his understanding. His version of what occurred is belied by other evidence. Defendant did not disclose his planning, he denied the knives he purchased were used, he denied bringing zip ties, and duct tape. He claimed he left $1,600 for the girls, but did not. This raises an inference of another motive for another type of suspect. How he forced two healthy athletic young women and their healthy vibrant mother onto a bed and bound them as defendant described it strains credulity. His version of events never adequately accounted for the post mortem manipulation of the girls' bodies. The claim he was provoked, the brutal nature of the crimes, the abuse of Suzanne's corpse, and his prior calculation and design outweigh any weight to be given his confession.

Defendant's Statement in Allocution

During defendant's unsworn statement he expressed retrospective remorse. He stated he did not deserve to live but requested mercy from the panel. This expression was received and given the weight appropriate pursuant to law. *See State v. Trimble,* 122 Ohio St.3d 297, 2009-Ohio-2961, 911 N.E.2d 242 (apologies and expressions of remorse in an unsworn

statement are given some mitigating weight); *State v. O'Neal,* 87 Ohio St.3d 402, 2000-Ohio-449, 721 N.E.2d 73; *State v. Kirkland,* 140 Ohio St.3d 73, 2014-Ohio-1966, 15 N.E.3d 818 (it is well-established that mercy is not a mitigating factor).

Sentence Evaluation

Nothing in the nature and circumstances of the offenses are mitigating. Defendant manipulated by deception his presence in Suzanne's home, which allowed him to assault, and restrain her liberty. He used force and threats to restrain Taylor and Kylie and in the course of these crimes caused their deaths. Defendant brutally and with prior calculation and design caused the death of these three woman. He silenced Suzanne by slitting her throat in the presence of her children. This course of conduct then continued and he silenced the girls by asphyxiating their ability to breathe for a period of at least four minutes, one at a time, to cause their death. Defendant cleaned up, concealed his crimes, planned an escape and plausible explanation for his disappearance and for suggested other suspects and motives. He felt no remorse such as to turn himself into police and confess, rather used a firearm to hold police at bay, lied and denied knowledge of the crimes.

The statutory mitigating factors argued by defendant pursuant to R.C. 2929.04 (B)(2) duress, and (3) mental disease or defect are unpersuasive. The evidence of defendant's mental health, his psychosocial behavior and upbringing are more correctly considered under RC 29292.04(B)(7) any other relevant factors. The panel has considered this evidence and given some

weight to each of these factors as proffered by defendant. However, this panel after carefully considering the law, the evidence, the arguments of counsel finds the aggravating circumstances plead to by defendant and proved beyond a reasonable doubt outweigh the mitigating factors established by defendant. *See State v. Myers,* 2018-Ohio-1903 (mitigating factors presented by defendant deserved, at most, modest weight and were outweighed by the aggravating circumstances pursuant to R.C. 2929.05 beyond a reasonable doubt for imposition of the death penalty). Therefore, this panel finds death as the appropriate penalty for the aggravated murders.

Proportionality

A death sentence is not disproportionate when viewed against recent cases in which a death sentence was affirmed for aggravated murder convictions with specifications of a course-of-conduct and at least one felony-murder specification:

• *State v. Beasley,* 153 Ohio St.3d 497, 2018-Ohio-493, 108 N.E.3d 1028 (defendant murdered three men and attempted to murder a fourth over a four-month period after luring them to a remote area with a fictitious job opportunity)

• *State v. Clinton,* 153 Ohio St.3d 422, 2017-Ohio-9423, 108 N.E.3d 1 (defendant murdered a woman and her two young children by strangling all three victims inside their home)

• *State v. Martin,* 151 Ohio St.3d 470, 2017-Ohio-7556, 90 N.E.3d 857 (defendant tied the victim up and

shot him execution style, then shot a second victim who survived)

• *State v. Sowell,* 148 Ohio St.3d 554, 2016-0hio-8025, 71 N.E.3d 1034 (defendant strangled 11 women to death and buried their bodies in and around his home)

• *State v. Dean,* 146 Ohio St. 3d 106,2015-Ohio-4347,54 N.E.3d 80 (defendant shot at two people at a Mini Mart, shot at additional victims at a house, and then directed his 16- year old accomplice to execute a victim during a robbery);

• *State v. Jackson,* 141 Ohio St 3d 171, 2014-0hio-3707, 23 N.E.3d 1023 (defendant shot and killed a woman during the aggravated robbery of a laundromat and shot at a second employee as part of a crime spree that included robberies in three counties and the attempted murder of a third man).

Sentencing as to the Capital Counts

The parties agree that counts one and two relating to the aggravated murder of Suzanne Taylor are allied offenses. The state has elected to have the panel sentence as to count one pursuant to R.C. 2903.01(A). They have agreed that counts three and four relating to the aggravated murder of Taylor Pifer are allied and the state elects sentence on count three pursuant to RC 2903.01(A). It is also agreed that counts five and six relating to the aggravated murder of Kylie Pifer are allied offenses and the state elects sentence on count five pursuant to RC 2903.01(A). Therefore, the panel does not enter convictions on counts two, four, and six.

Having considered all of the above, the principles and purposes of felony sentencing, seriousness and recidivism factors, the aggravating circumstances and mitigating factors, and having found beyond a reasonable doubt the aggravating circumstances outweigh mitigating factors, and that defendant was beyond a reasonable doubt the principal offender and committed the aggravated murders with prior calculation and design of Suzanne Taylor, Kylie Pifer, and Taylor Pifer while committing an aggravated burglary and kidnapping offense, and therefore, the panel hereby imposes the death penalty as to counts one, three and five.

Sentencing as to the Non-Capital Counts

The parties agree that count seven, aggravated burglary in violation of R.C. 2911.11(A)(1), is not allied with any other count. The parties have agreed that counts eight and eleven relating to Suzanne Taylor's kidnapping and abuse of her corpse pursuant to R.C. 2905.01(A)(3) and R.C. 2927.01(B) respectively are not allied offenses. The parties agree that counts nine and twelve relating to Taylor Pifer's kidnapping and abuse of corpse pursuant to R.C. 2905.01(A)(3) and R.C. 2927.01(B) respectively are not allied offenses. The parties agree that counts ten and thirteen relating to Kylie Pifer's kidnapping and abuse of corpse pursuant to R.C. 2905.01(A)(3) and R.C. 2927.01(B) respectively are not allied offenses.

Therefore, having considered all statutory provisions, the principles and purposes of felony sentencing, the appropriate recidivism and seriousness factors, the following sentences are hereby imposed: a

term of incarceration in the Lorain Correctional Institution for 11 years on each of counts seven, eight, nine and ten each a felony of the first degree; a term of incarceration in the Lorain Correctional Institution for twelve months on each of counts eleven, twelve, and thirteen each a felony of the fifth degree. The court finds that consecutive sentences are necessary to protect the public from future crime and to punish this offender. Further, that consecutive sentences are not disproportionate to the seriousness of defendant's conduct as outlined above nor to the danger defendant poses to the public, and that at least two of the multiple offenses were committed as part of one or more courses of conduct, and that the harm caused by said multiple offenses of burglary, kidnapping and abusing corpses was so great or unusual that no single prison term would adequately reflect defendant's conduct. For these reasons and all the facts and analysis above counts seven, eight, nine, ten, eleven and twelve shall be served prior to and consecutive to each other for a total of 47 years' incarceration.

Post release control is a mandatory part of the sentences in counts seven, eight, nine and ten for five years. A discretionary term of post release control for up to three years is part of the sentences imposed in counts eleven, twelve and thirteen. Defendant was advised in person and on the record that if post release control is imposed if he is ever released from prison and that if he violates that supervision or conditions of post release control under R.C. 2967.131(B), the parole board may impose a prison term as part of the sentence of up to one-half of the stated prison terms originally imposed on offender.

Defendant was advised of his appellate rights and by separate entry the court will order appellate counsel appointed, and a transcript ordered at state's expense.

The defendant is remanded to custody to be transported by the county sheriff in compliance with these findings and sentence. SO ORDERED.

DATE 1/18/19 /s/ Peter J. Corrigan
JUDGE PETER J. CORRIGAN

DATE 1/18/19 /s/ Timothy McCormick
J U D G E T I M O T H Y MCCORMICK

DATE 1/18/19 /s/ Michael Shaughnessy
J U D G E M I C H A E L SHAUGHNESSY

APPENDIX C

IN THE COURT OF COMMON PLEAS

Case No: CR-17-618342-A

[Filed: January 14 2019]

THE STATE OF OHIO
Plaintiff

GEORGE C BRINKMAN
Defendant

Judge: PETER J CORRIGAN

INDICT: 2903.01 AGGRAVATED MURDER /FMS /CCS
2903.01 AGGRAVATED MURDER /FMS /CCS
2903.01 AGGRAVATED MURDER /FMS /CCS
ADDITIONAL COUNTS...

JOURNAL ENTRY

THREE JUDGE PANEL ASSEMBLED, TO WIT: JUDGE TIMOTHY MCCORMICK, JUDGE MICHAEL P SHAUGHNESSY, AND PRESIDING JUDGE PETER J CORRIGAN.

DEFENDANT IN COURT WITH COUNSEL THOMAS E CONWAY & FERNANDO MACK. PROSECUTING ATTORNEY(S) SAL AWADALLAH & CHRIS SCHROEDER PRESENT.

COURT REPORTER PRESENT.

DEFENDANT ENTERS A PLEA OF GUILTY TO EACH OF COUNTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 AS CHARGED IN THE INDICTMENT.

A THREE JUDGE PANEL RETURNS A VERDICT OF GUILTY OF AGGRAVATED MURDER 2903.01 A UN WITH FELONY MURDER SPECIFICATION(S), COURSE OF CONDUCT SPECIFICATION(S) AS CHARGED IN COUNT(S) 1, 3, 5 OF THE INDICTMENT.

A THREE JUDGE PANEL RETURNS A VERDICT OF GUILTY OF AGGRAVATED MURDER 2903.01 B UN WITH FELONY MURDER SPECIFICATION(S), COURSE OF CONDUCT SPECIFICATION(S) AS CHARGED IN COUNT(S) 2, 4, 6 OF THE INDICTMENT.

A THREE JUDGE PANEL RETURNS A VERDICT OF GUILTY OF AGGRAVATED BURGLARY 2911.11 A(1) F1 AS CHARGED IN COUNT(S) 7 OF THE INDICTMENT.

A THREE JUDGE PANEL RETURNS A VERDICT OF GUILTY OF KIDNAPPING 2905.01 A(3) F1 AS CHARGED IN COUNT(S) 8, 9, 10 OF THE INDICTMENT.

A THREE JUDGE PANEL RETURNS A VERDICT OF GUILTY OF OFFENSES AGAINST HUMAN CORPSE 2927.01 B F5 AS CHARGED IN COUNT(S) 11, 12, 13 OF THE INDICTMENT.

DEFENDANT IS FOUND GUILTY OF AGGRAVATED MURDER, SPECIFICATIONS AND ALL REMAINING COUNTS BY THREE JUDGE PANEL

11/09/2018
CPEDB 01/10/2019 10:26:48

/s/ Peter J. Corrigan 1/10/19
Judge Signature Date

/s/ Timothy McCormick 1/14/19
Judge Signature Date

/s/ Michael Shaughnessy
Judge Signature
1/14/2019
Date

APPENDIX D

IN THE COURT OF COMMON PLEAS

Case No.: CR 17 618342-A

[Filed: October 15, 2018]

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

STATE OF OHIO

Plaintiff,

vs.

GEORGE C BRINKMAN

Defendant,

Judge: PETER J CORRIGAN

JOURNAL ENTRY

DEFENDANT'S WAIVER OF JURY TRIAL

I, GEORGE C BRINKMAN, the Defendant in this cause, hereby voluntarily waive and relinquish my right to a trial by jury, and elect to be tried by ~~a judge~~

a panel of three judges GEB TEC PJC of this Court of Common Pleas. I understand that I have a right, under the Constitutions and laws of both the United States and the State of Ohio, to a trial by a jury of twelve, and that no verdict could be made by a jury, except by agreement of all twelve members of that jury. I further state that no threats or promises have been made to induce me to waive this right, and that I am not under the influence of any drugs, alcohol, or medication that would affect my decision.

/s/ George C. Brinkman
(Signature of Defendant)

I hereby certify that I am (retained/assigned) counsel for the Defendant in this case, that I have explained to my client his/her rights under the Constitutions and laws of the United States and the State of Ohio to a trial by jury. No threats or promises have been made to induce the Defendant to waive that right, and I certify that this waiver has been knowingly, intelligently, and voluntarily made.

/s/ Thomas E. Conway
(Signature of Attorney of Record)

So ordered. /s/ Peter J. Corrigan 10/15/18
Judge PETER J CORRIGAN

DATE: _____