

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT,
OF THE STATE OF FLORIDA, IN AND FOR ORANGE COUNTY

STATE OF FLORIDA,
Plaintiff,

CASE NO. 48-2012-CF-014950-A-O

v.

BESSMAN CHARLES OBINNA OKAFOR,
Defendant.

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SENTENCING ORDER

This Order is entered pursuant to Florida Statute 921.141(4) in the criminal case of State of Florida v. Bessman Charles Obinna Okafor. Mr. Okafor was indicted on January 29, 2013, on charges of (1) First Degree Murder (With a Firearm), (2) Attempted First Degree Murder (With a Firearm), (3) Attempted First Degree Murder (With a Firearm), and (4) Armed Burglary of a Dwelling with Explosives or Dangerous Weapon. On August 26, 2015, the jury found Mr. Okafor guilty on all four counts. On September 1, 2015, the jury entered a verdict recommending the imposition of the death penalty by a vote of eleven to one. On November 17, 2015, Mr. Okafor was sentenced to death.

On June 8, 2017, the Florida Supreme Court entered an order affirming Mr. Okafor's conviction but vacating his sentence based on the decision of the U.S. Supreme Court in *Hurst v. Florida*, 136 S. Ct. 616 (2016) and the Florida Supreme Court in *Hurst v. State*, 202 So. 3d 40 (Fla. 2016). The case was remanded for a new penalty phase proceeding consistent with those decisions. In October of 2023, a penalty phase trial occurred which resulted in a mistrial.

On January 16, 2024, this Court commenced a new penalty phase trial for Mr. Okafor. After hearing extensive testimony and evidence and listening to arguments from counsel for both parties,

the penalty phase jury returned a verdict on January 31, 2024, as to Count One recommending, by a vote of nine to three, that the Court impose the Death Penalty upon Bessman Okafor. A *Spencer*¹ Hearing was conducted on April 22, 2024.

GUILT PHASE FACTS

In its order affirming Mr. Okafor's conviction on June 8, 2017, the Florida Supreme Court summarized the facts underlying the conviction as follows:

The testimony presented at trial demonstrated that Brienna Campos, Remington Campos, Brandon Campos, and Alex Zaldivar resided at a home owned by the Camposes' parents in Ocoee, Florida. At around noon on May 9, 2012, Brienna, Brandon, and a friend, William Harrington, were watching television in the living room. Alex was asleep in his room and Remington was at work. Brienna, Brandon, and William saw a blue or purple Monte Carlo drive up and down the street and assumed that someone was lost. Subsequently, two men rang the doorbell and Brandon answered. They put guns in Brandon's face and ordered him back inside. The men followed Brandon in, ordered Brienna, Brandon, and William to lie face down and found Alex in his room and ordered him out to join the others. They used video game controllers and costume handcuffs to tie the victims up. The men asked whether the home was a grow house and inquired where the drugs and money were. When they found neither, the men took some bags, some smaller electronic items, a small amount of cash, and Brandon's house keys and left. William was able to release himself from the costume handcuffs and untie the Camposes. They were able to then call the police. William was able to use the find my phone feature on his cellular phone to help the police track the assailants. Brienna, Brandon, and William rode with police to another location and identified Okafor and Nolan Bernard as the two men who had just invaded their home as well as the Monte Carlo the men had driven.

Bernard and Okafor were arrested and the stolen items were returned. Bernard was jailed awaiting trial, but Okafor was fitted with an ankle monitor and released on home confinement to the residence owned by his sister, Takeethia Ruffin. Okafor's trial for the May 9 home invasion was set for September 11, 2012. Brienna, Brandon, Alex, and William were scheduled to testify.

On August 24, 2012, Okafor sent a text message to someone named "Dorey" asking "did you get that?" to which Dorey responded, "it's here with a full clip." Okafor also told Dorey that his lawyer had informed him that all the witnesses were planning to show up. On September 9, 2012, Okafor exchanged text messages with

¹ *Spencer v. State*, 615 So. 2d 688 (Fla. 1993).

a friend, Antoine McLaren. Okafor texted that he was worried about his case and asked McLaren to procure a hoodie and gloves because he was worried about returning to jail. Okafor texted "I can't let them show up." McLaren declined to procure the items.

On September 10, 2012, at approximately 3:45 a.m., Okafor called Sherria Gordon and told her to get ready because he was coming to pick her and her children up. Okafor picked Sherria up from her home in Takeethia's white Malibu and dropped the children off to continue sleeping at Takeethia's house. Okafor's ankle monitor corroborated this evidence, showing him away from his home from 3:49:27 to 4:08:28 a.m. Sherria and Okafor drove to Nesly Ciceron's house, where Okafor woke Nesly, handed him the keys to a white Taurus, and instructed him to follow Okafor. As they were driving, Nesly pulled up beside Okafor and indicated that the Taurus needed gas. Both cars stopped at a Marathon gas station where Sherria was filmed paying for the gas purchase at 4:45 a.m. After refueling, both cars continued to an abandoned house where they met Donnell Godfrey and Emmanuel Wallace who were driving Candace Ruffin's white Impala.

Okafor handed Emmanuel's phone to Nesly and asked him to remain at a described location and to call if he heard police approaching. Okafor likewise instructed Sherria to wait at a location and to call if she heard police approaching. Okafor, Donnell, and Emmanuel drove the Impala to the Camposes' neighborhood. They were filmed by three surveillance cameras located at a house on the corner near the crime scene. The footage showed a white Impala passing by one of the cameras at 5:07 a.m. The video recording contained audio of four gunshots, with the first occurring at 5:21 a.m. followed by three consecutive shots. The cameras then showed the Impala heading in the opposite direction at 5:24 a.m.

At the Camposes' residence, Brienna and Remington were awakened by the sound of Brienna and Brandon's dogs barking. Brienna testified that she was pulled out of her room by a tall, lanky man who wore a long-sleeved shirt, pants, and a t-shirt covering his head so that she could only see his eyes and hairline. The unidentified man showed her his pistol and forced her out of her bedroom to the living room and had her lie face down. Alex was already lying face down and she was placed so close that their heads touched. Remington testified that he was removed from his bedroom by a heavy-set man with short dreads carrying a Glock pistol. On his way to the living room, Remington observed a tall, thin man with long dreads carrying an AK-47 assault rifle. Both Brienna and Remington testified to seeing only two assailants.

One of the assailants did all the talking. He asked, "where are the other two?" presumably referring to Brandon and William who were present at the May 9 home invasion. He also asked, "who is the naked guy?" referring to Remington who had not been present for the May 9 home invasion. He asked about the drugs and money and Brienna said, "you're going to be disappointed just like you were before." Both

Brienna and Remington testified that he said, “someone is going to get shot tonight.” Brienna testified that she thought the statement was just made to scare them. Brienna and Remington both testified that they heard the sound of rubber gloves snapping into place before hearing the first shot. Brienna testified that after she heard the first shot, she thought it had been a mistake due to adrenaline. She felt the pressure on the left side of her head. She then heard two more gunshots. Remington heard the first shot and said he knew Brienna had been hit because he knew it wasn’t right next to him or himself. Remington heard the second shot and heard Alex stop breathing. He then heard the third shot and said it felt like someone had dropped bricks on the back of his head and blood started blocking his vision. The assailants left and Brienna and Remington climbed over their back fence to their neighbors’ home. Amy Scott answered the door and saw the two of them covered in blood. Brienna used the Scotts’ phone to call police, who responded at 5:24 a.m.

Video surveillance captured the white Impala leaving the neighborhood around the same time. Sherria testified that Okafor called her and told her to return to the abandoned house. When she arrived, the other two cars were there. Nesly testified that he left his location before he was instructed but nevertheless returned to the abandoned house to await the others’ return. He testified that he was the first car to arrive back, followed by the Impala, followed by Sherria in the Malibu. Nesly testified that Godfrey was driving the Impala on the return trip and that Okafor got out of the Impala and into the car with Nesly who then drove Okafor home. Sherria testified that Godfrey got into the car with her and she drove him down the street until he indicated where to let him out. She then returned to Takeethia’s house, where Okafor was already standing outside. She and Okafor then went to bed.

Okafor’s jury trial commenced on August 10, 2015. At the end of the trial, the jury convicted him of one count of first-degree premeditated murder, two counts of attempted first-degree murder, and one count of armed burglary of a dwelling with explosives or a dangerous weapon.

Okafor v. State, 225 So. 3d 768 (Fla. 2017).

PENALTY PHASE FACTS

During Mr. Okafor’s penalty phase resentencing trial in January of 2024, the State called or read testimony of seventeen witnesses and offered three victim impact statements. The Defense called or read testimony of fourteen witnesses. The Court had the opportunity to observe the live witnesses and determine their credibility. The witnesses who testified are as follows:

Amy Scott resided in the house immediately behind the victims' home. Generally, she testified about the events immediately following the murder and attempted murders. Brienna Campos is one of the two surviving victims of the attempted murders on the morning of September 10, 2012, and was present at the armed robbery at the same home on May 9, 2012. She testified about both events.

Officer Daniel Schilling testified that he was an Ocoee Police Department patrol officer working the night shift on September 10, 2012, and responded to the 911 call that morning. Michael Moreschi testified that during September of 2012 he was a member of the Orlando Police Department homicide unit and was the lead detective working the murder and attempted murders. Karen Livengood testified that she was a crime-scene investigator for the Orlando Police Department on the morning of September 10, 2012, who processed the scene.

Christopher Poole testified to working for Allied Universal Electronic Monitoring which was formerly called 3M Electronic Monitoring in September of 2012. He testified that his company worked to provide electronic monitoring equipment to Orange County in 2012. Generally, he testified about the electronic ankle bracelet worn by Mr. Okafor on the morning of September 10, 2012. Meg Hughes testified to working as a Senior Community Corrections Officer with Orange County Corrections in September of 2012. She testified to working in the home confinement department which monitored individuals who were either sentenced or placed on home confinement as a condition of pretrial release, including Mr. Okafor.

Sherria Gordon testified to being the mother of Mr. Okafor's children and about the events of September 10, 2012.

Justin Fleck testified about his role as a member of the FBI cellular analysis survey team, or CAST unit and about his analysis of the cell phone records from the phones belonging to Mr.

Okafor, Mr. Godfrey, Mr. Wallace, Mr. Ciceron, and Ms. Gordon, for September of 2012. Edward Michael testified to being a detective with the Orlando Police Department in September of 2012. He worked in digital and forensic evidence collection and assisted the investigation of the murder of Alex Zaldivar.

Antoine McLaren testified that he met Mr. Okafor in high school and that they were friends in September of 2012. Generally, he testified about relevant events in September 2012, leading to the murder of Alex Zaldivar. Nesly Ciceron's previous testimony was read. Ciceron testified to the events surrounding the murder of Alex Zaldivar.

Dr. Marie Hansen testified to being an associate medical examiner for the District Nine Medical Examiner's office serving Orange and Osceola Counties. She testified to the autopsy of Alex Zaldivar and to the cause of death of Alex Zaldivar as homicide by multiple gunshot wounds.

Amy Siewert testified to working in the firearms section of the Florida Department of Law Enforcement in September of 2012 and to her analysis of evidence.

Remington Campos testified as one of the surviving victims of the attempted murders on the morning of September 10, 2012.

Victim Impact Statements were made by Denise Zaldivar (by way of written statement), Rafael Zaldivar, the father of the deceased victim Alex Zaldivar and Kyoko Zaldivar, the mother of Alex Zaldivar.

Aduare Eucharika Onokala testified as the aunt of Bessman Okafor. Candace Ruffin testified as the older sister of Mr. Okafor. The trial transcript of the testimony of Mr. Okafor's mother, Catalina Ruffin Sinclair, was read to the jury.

Robert Welch testified as the pastor emeritus of Way of Life Ministry. William Reese testified as having worked with the youth ministry at Way of Life Ministry and he knew Mr. Okafor

through his participation in the Praise Steppers.

Trevor Sinclair testified regarding his time married to Mr. Okafor's mother, Catalina Ruffin Sinclair. Trenton James testified as Mr. Okafor's half-brother. Tekethia Ruffin testified as the eldest sister of Mr. Okafor. Marcia Renee Pete testified as the second wife of Mr. Okafor's father, Charles Okafor. Leasha Tate testified to being a friend of Mr. Okafor's mother, Catalina Ruffin Sinclair.

Dr. Sheila Rapa testified as a licensed clinical and forensic psychologist. Dr. James Campbell testified as a clinical psychologist. Dr. Joseph Wu testified as a medical doctor and professor emeritus of psychiatry and researcher at the University of California, Irvine. Julie Harper, Psy. D., testified as a licensed psychologist.

Dr. Tonia Werner testified as a licensed psychologist. Dr. Geoffrey Negin testified as a diagnostic radiologist.

AGGRAVATORS ARGUED BY THE STATE

During the penalty phase, the State argued the existence of six statutory aggravating factors which it believed were present in the First Degree Murder of Alex Zaldivar. After hearing the penalty phase evidence and arguments from both parties, the penalty phase jury unanimously found that four of these aggravators were proven beyond a reasonable doubt. The Court will address each of these aggravators independently and assign them a respective weight.

Defendant was previously convicted of a felony involving the use or threat of violence to another person *Fla. Stat. 921. 141(6)(b)*

The State presented evidence establishing Mr. Okafor's prior conviction for Aggravated Assault with a Firearm, as well as for Mr. Okafor's prior convictions on four (4) counts of Robbery with a Firearm and one (1) count of Burglary of a Dwelling with an Assault or Battery therein, which involved the same location and many of the same individuals as in the instant case. In addition, the State argues that Mr. Okafor's established convictions in the instant case for the

Attempted First Degree Murders of Brienna and Remington Campos and conviction for Armed Burglary of a Dwelling with Explosives or a Dangerous Weapon qualify under this aggravator. In total, the State argues that it has presented evidence of nine (9) qualifying prior felony convictions involving the use or threat of violence on another person.

The Florida Supreme Court has held that “both robbery and murder involve violence *per se*” and further that “any attempt to commit these crimes must inherently involve the threat of violence.” *Johnson v. State*, 442 So. 2d 193, 197 (Fla. 1983). Similarly, the Florida Supreme Court has held that a conviction for Aggravated Assault with a Firearm constitutes a crime of violence. *See Gunsby v. State*, 574 So. 2d 1085, 1090 (Fla. 1991). Accordingly, the Court finds that this aggravator has been proven beyond and to the exclusion of a reasonable doubt and GIVES IT GREAT WEIGHT.

The First Degree Murder was committed while Defendant was engaged or an accomplice in the commission of, or an attempt to commit, or flight after committing or attempt to commit, any burglary Fla. Stat. 921.141(6)(d)

Mr. Okafor was convicted in the guilt phase of the instant case of Armed Burglary of a Dwelling with Explosives or Dangerous Weapon for conduct which was contemporaneous with the First Degree Murder of Alex Zaldivar and Attempted First Degree Murders of Brienna and Remington Campos. The facts presented during resentencing establish that Mr. Okafor, along with his co-defendants, broke into the home at 503 Bernardino Drive in the early hours of September 10, 2012, and in the course of that morning, murdered Alex Zaldivar. The penalty phase jury made a further finding that Mr. Okafor was a major participant in the Armed Burglary during which Alex Zaldivar was murdered. Accordingly, the Court finds that this aggravator has been proven beyond and to the exclusion of a reasonable doubt and GIVES IT GREAT WEIGHT.

The First Degree Murder was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws Fla. Stat. 921.141(6)(g)

The State presented overwhelming evidence that the primary, and perhaps sole, motive behind Mr. Okafor's murder of Alex Zaldivar and attempted murders of Brienna and Remington Campos was to prevent the residents of 503 Bernandino Drive from testifying against him at the trial scheduled to commence the very next day. This evidence included text messages and statements to friends and future co-defendants that revealed Mr. Okafor's knowledge that the residents of 503 Bernandino Drive had appeared at depositions and intended to testify against him. Mr. Okafor told his then girlfriend and co-defendant that he had a "plan" for dealing with the upcoming trial. He told Antoine McLaren that he feared going back to prison and, speaking of the would-be witnesses, believed they would appear for trial. This was followed immediately by a request for Mr. McLaren to help him obtain the tools he could use in the murder.

Nothing of value was taken from the house that morning. The testimony of survivors Brienna and Remington Campos reflects a chaotic, but short sequence of events with each being forced from their beds at gunpoint, led to the central living area of the house, laid on their stomachs and shot in the back of the head. Both described the snapping sound as at least one of the assailants put on latex gloves. The execution-style murder which ended Alex Zaldivar's life was intended to be at least a triple homicide. The Camposes' testimony reflect confusion by a defendant regarding Remington's presence² and the absence of two of the other victims from the prior robbery at the house. Mr. Okafor was the only defendant in the September 10, 2012 armed burglary who was present to observe the victims of the May 9, 2012 armed robbery and would know of missing witnesses. The silencing of the witnesses against Mr. Okafor in his trial for the armed robbery of the same home mere months earlier was the whole point.

² Remington Campos was not present at the home at the time of the armed robbery in May of 2012.

The Florida Supreme Court has consistently held that this aggravator is satisfied where there is evidence that the defendant was aware of the victim's role as a witness or potential witness and that, but for that role, the victim may still be alive. *See Lara v. State*, 464 So. 2d 1173, 1180 (Fla. 1985); *Francis v. State*, 473 So. 2d 672, 676 (Fla. 1985). Preserving and conducting jury trials is a core, constitutional function of the judicial branch. Our entire constitutional structure for the conduct of criminal jury trials is predicated upon the truthful testimony of live witnesses presented through direct and cross-examination in open court. There can be no greater disruption or hindrance of the lawful exercise of the governmental function of the conduct of a criminal jury trial than the intimidation of and/or the attempt to eliminate a witness' ability to testify in that trial. Accordingly, the Court finds that this aggravator has been proven beyond and to the exclusion of a reasonable doubt and GIVES IT VERY GREAT WEIGHT.

The First Degree Murder was committed in a cold, calculated, and premeditated manner, without any pretense of moral or legal justification Fla. Stat. 921.141(6)(i)

In *Zommer v. State*, 31 So. 3d 733, 745 (Fla. 2010), the Florida Supreme Court described the factors relevant to finding the existence of the cold, calculated, and premeditated aggravator as follows:

[T]o support the CCP aggravator, a jury must find that (1) the killing was the product of cool and calm reflection, and not an act prompted by emotional frenzy, panic or a fit of rage, (2) the defendant had a careful plan or prearranged design to commit murder before the killing, (3) the defendant exhibited heightened premeditation, and (4) the defendant had no pretense of moral or legal justification.

As described above, Mr. Okafor had a clear design, developed over time, which was the product of cool and calm reflection. He told his girlfriend in text messages that he had a plan, and in trying to recruit the assistance of Mr. McLaren he revealed his conclusion that he "didn't want them to show up" for trial. Mr. Okafor told Mr. Ciceron that he had determined how long he could be away from his home with the ankle monitor. Mr. Okafor set out by recruiting a team of co-

defendants to break into the home with him and ensured that they were properly equipped. He obtained a gun, and at the very least ensured that Mr. Wallace and Mr. Godfrey had weapons as well. He did research on methods to remove gunshot residue and obtained latex gloves. He recruited both a friend, Mr. Ciceron, and his girlfriend, Sherria Gordon, to act as lookouts and warn him if the police were in the area, even going so far as setting them up with specific locations and instructing them on what number to call if they saw anything. Upon learning that Mr. Ciceron had forgotten his cell phone, Mr. Okafor gave him Mr. Wallace's phone. Both Brienna and Remington Campos recall being warned by one of the home invaders that "someone is going to die tonight" before being shot in the back of the head.

The facts of this case clearly demonstrate heightened premeditation. Mr. Okafor went to considerable lengths to recruit a team, orchestrate their movements, and evade detection. He believed he knew what needed to be done for him to avoid prison and committed himself to seeing it through. In his mind, his actions were justified by his own desire to remain free. But there was no legal or moral justification for what he did. Accordingly, the Court finds that this aggravator has been proven beyond and to the exclusion of a reasonable doubt and GIVES IT VERY GREAT WEIGHT.

MITIGATORS PRESENTED BY THE DEFENSE

The aggravating factors found above are only part of the equation this Court must weigh in making a sentencing determination in a death penalty case. The Court must consider each mitigating circumstance proposed by Mr. Okafor and determine whether it is supported by the evidence and whether it is truly mitigating in nature. *See Campbell v. State*, 571 So. 2d 415, 419 (Fla. 1990). "A trial court must find a proposed mitigating circumstance when the defendant has established that mitigator through competent, substantial evidence." *Allen v. State*, 137 So.3d 946,

964 (Fla. 2013) (citing *Reynolds v. State*, 934 So.2d 1128, 1159 (Fla. 2006)). The *Allen* Court went on to note the following:

However, a trial court may reject a mitigator if the defendant fails to prove the mitigating circumstance, or if the record contains competent, substantial evidence supporting that rejection. Even expert opinion evidence may be rejected if that evidence cannot be reconciled with other evidence in the case. A mitigator may also be rejected if the testimony supporting it is not substantiated by the actions of the defendant, or if the testimony cannot be reconciled with other evidence in the case.

Allen, 137 So.3d at 964 (internal citations omitted). The jury was instructed on fifty-four such possible mitigators, and the Court will address each in turn.

1. The capital felony was committed while the Defendant was under the influence of extreme mental or emotional disturbance.

This mitigator is laid out specifically in the Statute in section 921.141(6)(b) and has been described as requiring “less than insanity but more than the emotions of an average man, however inflamed.” *Duncan v. State*, 619 So. 2d 279, 283 (Fla. 1993). While the testimony of several defense witnesses includes a diagnosis of complex post-traumatic stress disorder (PTSD) and the existence of multiple traumatic childhood experiences, there is no evidence regarding Mr. Okafor’s state of mind at the time he was committing the murder of Alex Zaldivar, and attempted murders of Brienna and Remington Campos. Instead, there is substantial evidence regarding the cold, calculated nature of his planned execution of the would-be witnesses against him. Dr. Rapa testified that PTSD is a constant thing, playing a role in everything someone does in their life after they have it. She expected Mr. Okafor would have been suffering from PTSD even on September 10, 2012, but she did not ask him about his state of mind at the time of the murder. However, there is no indication that anything specifically triggered Mr. Okafor to carry out these crimes; instead, they can be understood as a rational step for someone seeking to avoid prison at all costs. Accordingly, the Court finds that this mitigator was established by the greater weight of the

evidence presented at trial and gives it LITTLE WEIGHT.

2. Bessman Okafor will never get out of prison.

The Court finds that this mitigator was established by the greater weight of the evidence through the records of Mr. Okafor's previous sentence and gives it LITTLE WEIGHT.

3. Bessman Okafor suffers from PTSD, post-traumatic stress disorder.

Defense witnesses Dr. Sheila Rapa, Dr. James Campbell, and Julie Harper, Psy.D. testified about their respective diagnoses of Mr. Okafor with post-traumatic stress disorder. State witness Dr. Tonia Werner testified that she did not find that he met the criteria for post-traumatic stress disorder, although she testified that Mr. Okafor did experience trauma and did meet some of the criteria for PTSD. The Court finds that this mitigator was established by the greater weight of the evidence and gives it SOME WEIGHT.

4. Bessman Okafor was beaten and physically abused by his mother with belts, pans, and electrical cords.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of multiple witnesses regarding Mr. Okafor's childhood and gives it MODERATE WEIGHT.

5. Bessman Okafor was never shown mercy by his mother.

The Court finds that, although the testimony regarding Mr. Okafor's treatment by his mother was frequently appalling, to find that he was "never shown mercy by his mother" is likely impossible to establish. Accordingly, the Court finds that there is insufficient evidence to establish this mitigator, as worded, and gives it NO WEIGHT. The Court finds by the greater weight of the evidence that Mr. Okafor's mother often did not show mercy to him and gives it SOME WEIGHT.

6. Bessman Okafor was a Praise Stepper in his church.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of one of Mr. Okafor's youth pastors William Reese and gives it LITTLE WEIGHT.

7. Bessman Okafor was sexually abused by a member of his church.

The Court finds that Mr. Okafor's sexual abuse at the hands of Arnie Jeffers was established by the greater weight of the evidence through the testimony of multiple witnesses and admitted evidence and gives it MODERATE WEIGHT.

8. Bessman Okafor witnessed his mother being beaten.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of multiple witnesses, including Trenton James, Dr. Sheila Rapa, Dr. James Campbell, and Julie Harper and gives it SOME WEIGHT.

9. Bessman Okafor witnessed his sisters being beaten.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of multiple witnesses, including Mr. Okafor's sister Candace Ruffin and gives it SOME WEIGHT.

10. Bessman Okafor was neglected.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of multiple witnesses, including Mr. Okafor's sister Candace Ruffin and gives it MODERATE WEIGHT.

11. Bessman Okafor was subjected to food deprivation.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of multiple witnesses, including Mr. Okafor's sister Candace Ruffin and

gives it SOME WEIGHT.

12. Bessman Okafor's home often lacked water.

The Court finds that there was testimony and evidence that at times during his childhood Mr. Okafor's did not have access to running water in the home, including DCF reports that at the time of a visit the water was shut off and the family was storing water in buckets for cleaning and cooking; however, there is a lack of evidence supporting the contention that these occurrences were common. Accordingly, the Court finds this mitigator to be established by the greater weight of the evidence and gives it SOME WEIGHT.

13. Bessman Okafor's home often had the electricity turned off.

Like the previous mitigator, there is limited evidence regarding the frequency with which the electricity was turned off; however, the fact that it was turned off was established in the testimony of both Mr. Okafor's sister Candace Ruffin and Trenton James. The Court finds that this mitigator was established by the greater weight of the evidence and gives it SOME WEIGHT.

14. Bessman Okafor suffered complex trauma.

The Court finds that this mitigator was established by the greater weight of the evidence via the testimony of both Defense witnesses Dr. Rapa and Dr. Campbell, as well as by State witness Dr. Werner and gives it MODERATE WEIGHT.

15. Bessman Okafor suffered from being parentified, in taking care of his younger siblings.

The Court finds that this mitigator was established by the greater weight of the evidence via the testimony of Candace Ruffin and Trevor Sinclair, among others, and gives it SOME WEIGHT.

16. Bessman Okafor was never appropriately treated for trauma.

The Court finds that this mitigator was established by the greater weight of the evidence

via the testimony of Candace Ruffin and Trevor Sinclair, among others, and gives it MODERATE WEIGHT.

17. Bessman Okafor was not supported in school for trauma.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of Dr. Rapa and gives it SOME WEIGHT.

18. Bessman Okafor was abandoned by his father before the age of one.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of his mother Catalina Ruffin Sinclair and gives it SOME WEIGHT.

19. Bessman Okafor's mother was abandoned by Bessman Okafor's father when Bessman was a child.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of his mother Catalina Ruffin Sinclair and gives it SOME WEIGHT.

20. Bessman Okafor was abandoned by his mother when he was three or four years old.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of his mother Catalina Ruffin Sinclair and other witnesses and gives it SOME WEIGHT.

21. Bessman Okafor was taken from the supportive home of his father after he was abandoned by his mother, and moved to Florida when he was six or seven years old.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of his mother Catalina Ruffin Sinclair and other witnesses and gives it SOME WEIGHT.

22. Bessman Okafor was moved from a home where he was supported and comfortable, to a home which was crowded and financially unstable.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of Catalina Ruffin Sinclair, Candace Ruffin, Trevor Sinclair, Trenton James,

and others, and gives it SOME WEIGHT.

23. Bessman Okafor suffered an undiagnosed learning disability, which was later identified as an emotional handicap.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of Julie Harper and gives it SOME WEIGHT.

24. Bessman Okafor did not have a stable male parent for most of his childhood.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of Catalina Ruffin Sinclair, Candace Ruffin, Trevor Sinclair, Trenton James, and others, and gives it SOME WEIGHT.

25. Bessman Okafor did not have a consistent male role model.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of Catalina Ruffin Sinclair, Candace Ruffin, Trevor Sinclair, Trenton James, and others, and gives it SOME WEIGHT.

26. Bessman Okafor's mother was devastated when his father left her and blamed Bessman by beating him and emotionally abusing him.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of Catalina Ruffin Sinclair, Candace Ruffin, Trevor Sinclair, Trenton James, and others, and gives it SOME WEIGHT.

27. Bessman Okafor was beaten by his mother more than his siblings.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of Catalina Ruffin Sinclair, Candace Ruffin, Trevor Sinclair, Trenton James, and others, and gives it SOME WEIGHT.

28. Bessman Okafor's mother would come home at night, wake up the children, and beat them if the home was not clean enough.

The Court finds that this mitigator was established by the greater weight of the evidence

through the testimony of Candace Ruffin and gives it SOME WEIGHT.

29. Bessman Okafor's mother was diagnosed with a personality disorder and was never treated.

The Court finds that this mitigator was established by the greater weight of the evidence through record evidence and the testimony of Julie Harper and gives it SOME WEIGHT.

30. Bessman Okafor's mother was mentally ill.

The Court finds that this mitigator was established by the greater weight of the evidence through record evidence and the testimony of Julie Harper and gives it SOME WEIGHT.

31. Bessman Okafor's mother lost family income when she was arrested for beating Bessman Okafor and blamed him.

The Court finds that this mitigator was established by the greater weight of the evidence through record evidence and testimony and gives it SOME WEIGHT.

32. Bessman Okafor's mother went to jail for beating Bessman.

The Court finds that this mitigator was established by the greater weight of the evidence through record evidence and testimony and gives it SOME WEIGHT.

33. Bessman Okafor was exposed to substance abuse, specifically alcohol.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of Catalina Ruffin Sinclair, Candace Ruffin, Trevor Sinclair, Trenton James, and others, and gives it SOME WEIGHT.

34. Bessman Okafor was exposed to violence.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of Catalina Ruffin Sinclair, Candace Ruffin, Trevor Sinclair, Trenton James, and others, and gives it SOME WEIGHT.

35. Bessman Okafor was neglected emotionally.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of Catalina Ruffin Sinclair, Candace Ruffin, Trevor Sinclair, Trenton James, and others, and gives it SOME WEIGHT.

36. Bessman Okafor was bullied in school.

The Court finds that this mitigator was established by the greater weight of the evidence through record evidence and testimony and gives it SOME WEIGHT.

37. Bessman Okafor lost family members through divorce and death.

The Court finds that this mitigator was established by the greater weight of the evidence and gives it SOME WEIGHT.

38. Bessman Okafor lived in an unstable household from the time of birth on, living in six locations with different caretakers before the age of seven.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of Catalina Ruffin Sinclair, Candace Ruffin, Trevor Sinclair, Trenton James, and others, and gives it SOME WEIGHT.

39. Bessman Okafor was not potty trained as a child.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of Catalina Ruffin Sinclair, Marcia Pete, Candace Ruffin, Trevor Sinclair, Trenton James, and others, and gives it LITTLE WEIGHT.

40. Bessman Okafor suffered a medical issue which led him to defecate in his pants subjecting him to ridicule.

The Court finds that this mitigator was established by the greater weight of the evidence through record evidence and testimony and gives it SOME WEIGHT.

41. Bessman Okafor was abandoned on a stranger's doorstep.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of Catalina Ruffin Sinclair and gives it SOME WEIGHT.

42. Bessman Okafor had instability in school.

The Court finds that this mitigator was established by the greater weight of the evidence through record evidence and testimony and gives it SOME WEIGHT.

43. Bessman Okafor was not taken for necessary counseling.

The Court finds that this mitigator was established by the greater weight of the evidence through record evidence and testimony and gives it MODERATE WEIGHT.

44. Bessman Okafor's mother did not receive necessary counseling.

The Court finds that this mitigator was established by the greater weight of the evidence through record evidence and testimony and gives it SOME WEIGHT.

45. Bessman Okafor was treated differently than his siblings.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of Catalina Ruffin Sinclair, Candace Ruffin, Trevor Sinclair, Trenton James, and others, and gives it SOME WEIGHT.

46. Bessman Okafor suffered all ten ACE, or Advanced Childhood Experiences factors.

The Court finds that this mitigator was established by the greater weight of the evidence through the testimony of Dr. Campbell and gives it MODERATE WEIGHT.

47. Bessman Okafor suffered the loss of his son and daughter.

The Court finds that this mitigator was established by the greater weight of the evidence through record evidence and testimony and gives it SOME WEIGHT.

48. Bessman Okafor is loved by his family.

The Court finds that this mitigator was established by the greater weight of the evidence through record evidence and testimony and gives it LITTLE WEIGHT.

49. Bessman Okafor loves his children.

The Court finds that this mitigator was established by the greater weight of the evidence through record evidence and testimony and gives it LITTLE WEIGHT.

50. Bessman Okafor is loved by his children.

The Court finds that this mitigator was established by the greater weight of the evidence through record evidence and testimony and gives it LITTLE WEIGHT.

51. Bessman Okafor tries to parent his children from prison.

The Court finds that this mitigator was established by the greater weight of the evidence through record evidence and testimony and gives it LITTLE WEIGHT.

52. Bessman Okafor has exhibited excellent courtroom demeanor.

The Court finds that this mitigator was established by the greater weight of the evidence based on the Court's own observations during pre-trial hearings and trial and gives it LITTLE WEIGHT.

53. Bessman Okafor was brain damaged consistent with child neglect and/or traumatic brain injury.

Conflicting testimony was offered by Dr. Wu and Dr. Negin. Dr. Wu opined that the images of Mr. Okafor's brain show damage consistent with childhood abuse and neglect and significant head trauma. In reviewing Dr. Wu's testimony, the Court notes that his use of the PET scan is outside the norm and experimental, and the sample size against which he compared Mr. Okafor's scan results is small, consisting of 16 individuals. Dr. Wu's use of the MRI DTI is outside the norm and experimental, and the sample size against which he compared Mr. Okafor's scan results is

small, consisting of 42 individuals. While Dr. Wu is accomplished in his field, he is not a diagnostic radiologist. Dr. Negin is board certified in diagnostic radiology and neuroradiology. He routinely reads PET scans, which are conventionally used to diagnose cancer or Alzheimer's disease and rarely for traumatic brain injury. He is trained and licensed to do so. Dr. Negin indicated that the gold standard for diagnosing traumatic brain injury is a conventional MRI. Dr. Negin found that Mr. Okafor's PET and MRI DTI scans were that of a normal brain with no evidence of traumatic brain injury, other brain injury or damage that is not normal for his age. The Court finds Dr. Negin's testimony more credible and scientifically supported. Accordingly, the Court finds that this mitigator was not established and gives it NO WEIGHT.

54. The existence of any other factors in Bessman Okafor's character, background, or life, or the circumstances of the offense that would mitigate against the imposition of the death penalty.

The list of mitigators provided by the defense was comprehensive and analyzed individually. Other minor factors were referenced and the court has considered all the testimony and evidence. The Court has considered the entirety of Mr. Okafor's character, background, and life as set forth individually and collectively by the mitigation evidence presented. The Court finds that the circumstances of the offense do not mitigate against the imposition of the death penalty. However, the Court finds that the balance of this mitigator was established by the greater weight of the evidence and gives it SOME WEIGHT.

PROPORTIONALITY AND RELATIVE CULPABILITY

In the time since Mr. Okafor was originally sentenced to death in 2015, the Florida Supreme Court has eliminated both the requirement for "comparative proportionality review" in capital cases, as well as the relative culpability review which would have considered the comparative sentences given to Mr. Okafor's co-defendants. *See Cruz v. State*, 372 So. 3d 1237, 1243 (Fla.

2023) (citing *Lawrence v. State*, 308 So. 3d 544 (Fla. 2020)). If required to conduct such reviews, the factual circumstances in the instant case demonstrate the way in which Mr. Okafor alone stood to benefit from the murder of Alex Zaldivar and attempted murders of Brienna and Remington Campos. His conduct in planning and conducting the events of that morning speaks for itself. Death is proportional and his conduct is more culpable than that of his co-defendants.

SUMMARY OF AGGRAVATING FACTORS AND MITIGATING CIRCUMSTANCES

A review of the aggravating factors and mitigating circumstances reveals that the State of Florida has proved four aggravating factors beyond a reasonable doubt, and Mr. Okafor proved statutory and non-statutory mitigating circumstances. However, the weighing process to be undertaken by the Court is qualitative, not quantitative.

CONCLUSION

As to Count I of the Indictment for First Degree Murder with a Firearm of Alexander Zaldivar, the Court has carefully considered all the evidence presented during the penalty phase trial, the *Spencer* hearing, and the sentencing memoranda submitted by the State and Mr. Okafor. The Court has independently considered and weighed each aggravator found unanimously to exist by the penalty phase jury, as well as each of the fifty-four mitigators argued by the Defense to decide the appropriate sentence in light of the evidence. The Court has considered and given great weight to the jury recommendation of death by a vote of nine to three. Having considered and weighed the existing aggravators and mitigators in a qualitative, and not a quantitative manner, and being mindful that a human life is at stake, the Court finds that there are sufficient aggravating factors to warrant the death penalty and that the aggravating factors far outweigh the mitigating circumstances and support the recommendation of the jury for a sentence of death.

SENTENCE

BESSMAN OKAFOR, you have not only forfeited your right to dwell among us as a free man, but by your actions, and under the law of the State of Florida, you have forfeited your right to live as well.

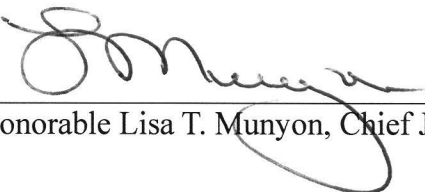
The Court concludes that DEATH, as recommended by the jury, is the appropriate sentence in this case.

THEREFORE, BESSMAN OKAFOR, having previously been adjudicated guilty of the First Degree Murder with a Firearm of Alexander Zaldivar, I HEREBY SENTENCE YOU TO DEATH.

IT IS THE ORDER OF THIS COURT that you, BESSMAN OKAFOR, be incarcerated within the appropriate facility of the Florida Department of Corrections, and there to be kept in close confinement until the date of your execution is set. That on the date of your execution, you shall be taken to the death chamber, and you shall be put to death in a manner prescribed by law.

This sentence is subject to an automatic review by the Supreme Court of Florida. You are further advised that you have the right to counsel to assist you in the preparation, filing and argument of your appeal. If you cannot afford an attorney, an attorney will be appointed for you.

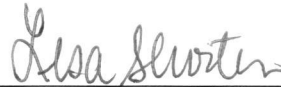
DONE AND ORDERED this 24th day of June, 2024, in Orlando, Orange County, Florida.



Honorable Lisa T. Munyon, Chief Judge

CERTIFICATE OF SERVICE

I hereby certify a true copy of the foregoing has been efiled and electronically served to all counsel of record through the statewide electronic portal and furnished by hand this 24th day of June, 2024 to Matthew Ryan Williams, Designated Assistant State Attorney, Jamie McManus, Designated Assistant State Attorney, Ted Marrero, Esquire, and Eben Self, Esquire.



Judicial Assistant