

STATE OF FLORIDA

CASE NO: 20-CF-004668-A-X

VS.

NEELY PETRIE-BLANCHARD

MCCC - CRIMINAL
OCT 20 '26 PM 1:36

MOTION FOR NEW TRIAL

COMES NOW the Defendant, Neely Lauren Raye Pesognelli Petrie-Blanchard pursuant to 3.600 of the Florida Rules of Criminal Procedure and states the following:

Grounds / Issues: March 21, 2024 - Pre-trial hearing

1. See Fla. Const. Art I Section 9 ("[N]o person shall be deprived of life, liberty or property without due process of law or be compelled in any criminal matter to be a witness against oneself.") See U.S. Const. Amend. V ("[N]o person shall be deprived of life, liberty, or property without due process of law or be compelled in any criminal case to be a witness against himself.") See Fla. Const. Art I Section 2 ("[N]o person shall be deprived of any right because of race, religion, national origin, or physical disability.") See U.S. Const. Amend. XIV ("[A]ll persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or the immunities of citizens of the United States; nor shall any

State deprive any person within its jurisdiction the equal protection of the laws.¹

The trial court judge violated defendant's right to not be deprived of life, liberty, or property without due process of law and committed fundamental error by failing to order a competency evaluation and failing to hold a due process hearing to evaluate and determine defendant's competency to proceed before it granted Counsel's request to withdraw when the record shows counsel had a good faith belief that his client lacked the capacity to consult and assist counsel in preparing for her defense and lacked the capacity to understand the nature and object of the proceedings against her and was not able to assist in her defense. The record shows that counsel filed a motion stating that "the relationship between the defendant and her attorney had become so estranged that there was no longer an ability to effectively interact in the attorney-client relationship and counsel made an *ore tenus* motion to the court stating reasonable grounds why his client was not competent to proceed and told the court that he wanted the court to order an evaluation on the defendant. Defendant's due process right to a fair trial was violated when the court did not do this. In *Pate v. Robinson*, 383 U.S. 375, 86 S. Ct. 836, 15 L. Ed. 2d 815 (1966) the Court held that failure to observe procedures adequate to protect a defendant's right not to be tried or convicted while incompetent to stand trial deprives him of his due process right to a fair trial. It has long been accepted that a person whose mental condition is such that he lacks the capacity to understand the nature and object of the proceedings against him, to consult with counsel, and to assist in preparing his defense may not be subjected to a trial. (Quoting *Drope v. Missouri* (1975)) The court could also not determine retroactively if and when the defendant had

last been evaluated for competency to proceed. See *Tingle v. State*, 536 So. 2d 202, 204 (Fla. 1988) ("[F]ailure to conduct a competency hearing requires reversal and remand for retrial after a determination of competency is made.")

2. The trial court judge also violated Defendant's right to Assistance of Counsel and committed fundamental error by allowing her counsel to withdraw when she was made aware that the accused did not have the capacity to make a knowing and intelligent waiver of this crucial right. The court also did not offer defendant counsel nor did it make a thorough inquiry into both the accused's comprehension of an offer of Assistance of Counsel or make a thorough inquiry into the accused's capacity to make a knowing and intelligent waiver nor did it advise the defendant of the disadvantages and dangers of self-representation. The failure of the defendant to request appointment of counsel does not constitute a waiver of counsel at any stage of the proceedings. See Fla. R. Crim. p. 3.111(d)(1) and (2)

1) The failure of a defendant to request appointment of counsel shall not, in itself, constitute a waiver of counsel at any stage of the proceedings. (2) A defendant shall not be considered to have waived the Assistance of Counsel until the entire process of offering counsel has been completed and a thorough inquiry has been made into both the accused's comprehension of that offer and the accused's capacity to make a knowing and intelligent waiver. Before determining whether the waiver is knowing and intelligent, the court shall advise the defendant of the disadvantages and dangers of self-representation.

The record shows that defendant's request for self-representation was not stated unequivocally. (Transcript March 21, 2024 p. 12 Line 8-25; p. 13 Line 1-3) Defendant's position never changed. She wanted Assistance of Counsel. See *Chapman v. U.S.*, 553 F. 2d 886, 892 (5th Cir. 1977); See *Faretta*, 422 U.S. at 835-36, 95 S. Ct. at 2541 ("[A] request for self-representation must be stated unequivocally.") The defendant was incompetent and suffering from a severe mental illness. See Fla. R. Crim. P. 3.111 (d)(3) ("[R]egardless of the defendant's legal skills or the complexity of the case, the court shall not deny a defendant's unequivocal request to represent herself, if the court makes a determination of record that the defendant has made a knowing and intelligent waiver of the right to counsel and does not suffer from severe mental illness to the point where the defendant is not competent to conduct trial proceedings by herself. The Defendant was suffering from a multiple personality disorder with paranoia delusions (Neuropsychologist Dr. Jason Demery's opinion) and had psychotic disorders throughout her life and was suffering from a delusional disorder (Psychologist Dr. Harry Krop's opinion) and during trial this caused her not to call two of her main witnesses to testify to her insanity at the time of the offense. The record also shows that the defendant was indigent. See *Godinez v. Moran*, 509 U.S. 389, 399 113 S. Ct. 2680, 2687, 125 L. Ed 2d 321 (1993) ("[T]he competence that is required of a defendant seeking to waive his right to counsel is the competence to waive the right, not the competence to represent himself.") The Defendant was indigent and never signed a waiver of

her right to Counsel. ("[W]hether there has been an understanding, intelligent, competent and voluntary waiver depends in each case upon the particular facts and circumstances surrounding that case, Johnson v. Zerbst, Supra, and Rice v. Olson,

Supra. In any event, when an indigent accused appears in court without a lawyer, the court must either appoint Counsel for the defendant or determine that there has been a competent and intelligent waiver of the constitutional right to Counsel before the court has the authority to proceed.") See Alford (Mainwright, 156 So. 2d (Fla. 1963) ("[I]n each instance where an accused appears in court without a lawyer, the court should advise him of his constitutional right to the Assistance of Counsel and determine whether or not he is able to employ a lawyer to represent him. If the accused is unable to employ a lawyer then the court must offer to appoint Counsel to represent the accused. Of course, the accused may reject that offer, thereby waiving his Constitutional right to the Assistance of Counsel. However this waiver must be intelligently and understandingly made.") See Johnson v. Zerbst, 304 U.S. 458, 58 S. Ct. 1019, 82 L. Ed 1461 (1938); Carter v. People of State of Illinois, 329 U.S. 173, 67 S. Ct. 216, 91 L. Ed. 172 (1946) Florida, "(Through its Constitution, Rules of Criminal procedure, and the Florida Statutes," affords the substantive right to appointed counsel to indigent criminal defendants charged with "[o]ffenses punishable by imprisonment." State v. Kelly, 999 So. 2d 1029, 1040 ; (Quoting Fla. R. Crim. p. 3.111(b)(1) (1992)). Florida Statutes (2023), Sec 27.40(1), provides that counsel shall be appointed to represent any individual in a criminal proceeding entitled to court-appointed counsel.

Under the Federal and State Constitution. The Court was aware that the defendant was indigent. The Court had been paying the Justice Administrative Commission on behalf of the defendant. The defendant was not represented by Counsel and was financially unable to employ counsel and she did not competently and intelligently waive her right to Counsel. See Johnson v. Zerbst, 304 U.S. 458, 464, 58 S.Ct. 1019, 1023

"[I]n a right to Counsel case, the burden rests upon the defendant in his collateral attack upon the judgment to rebut this presumption by first alleging and then proving by a preponderance of the evidence (1) that he was not represented by counsel; and (2) that he was financially unable to employ Counsel; and (3) that he did not competently and intelligently waive his right to Counsel." This was a material stage. See Fla. R. Crim. p. 3.210(a)(1) ("[A] material stage of the criminal proceeding includes pre-trial hearings involving questions of fact on which the defendant might be expected to testify or other matters where the mental competence of the defendant is necessary for a just resolution of the issues being considered.")

3. The trial court judge violated Defendant's due process right to a fair and impartial trial and right to Assistance of Counsel and committed fundamental error by failing to grant counsel's motion to continue her trial for her to obtain counsel when the record shows the court did not make an inquiry into her financial ability to employ Counsel. The clerk of Court determined her to be indigent on September 28, 2021

4. Was prosecuting attorney Amy Berndt guilty of misconduct by being discriminatory towards the defendant and by failing to be honest and represent the truth when the records shows that

the prosecutor told the court on March 21, 2024 that Counsel Jack R. Maro did not represent the defendant when he filed a motion to withdraw and a motion to continue on March 19, 2024 and called the Defendant a Sovereign Citizen and a QAnon believer. Substantial rights of the Defendant were prejudiced because of this conduct.

5. The trial court judge violated Defendant's right to a fair and impartial trial and fundamental rights of the defendant were prejudiced when it failed to order a third neutral mental health witness to examine the defendant for insanity at the time of the offense when the record shows defendant's Counsel informed the Court that the two experts had contrary opinions and then the court allowed counsel to withdraw from the case.

Factual and Legal Claims: March 21, 2024

On March 19, 2024, Counsel for defendant, Jack R. Maro, Esquire filed a motion to withdraw and a motion to continue trial so the defendant could seek substitute Counsel. (See Record p. 145-147) On March 21, 2024 two days after Counsel filed said above motions there was a hearing on the matter. Counsel there told the Court that the defendant was in need of a psychological (See pre-trial transcript p. 6 Line 3-10) and made an ore tenus motion to the court informing the court that she was not competent and told the court to order an evaluation (See pre-trial transcript p. 8 Line 3-23) and then explained the grounds as to why he had this belief. Counsel did not believe that she had a rational as well as a factual understanding of the pending proceedings and that she

did not have the sufficient present ability to consult with him with a reasonable degree of rational understanding. Counsel informed the court of the two experts having contrary opinions. (See pre-trial transcript p.5 Line 3-20) The prosecutor for the State Amy Berndt made an ore tenus motion to strike defense counsel's motion to continue trial scheduled April 15, 2024 (transcript p.7 Line 13-24) Prosecutor Amy Berndt engaged in dishonesty and misrepresentation when she told the court that counsel Jack Maro did not represent the defendant when he filed the two motions on March 19, 2024 and also was discriminatory towards the defendant when she called her a Sovereign Citizen and Q Anon believer. (transcript p.9 Line 12-16) Q is connected to religion and is known to Catholics as being a book in the Holy Bible. The court granted counsel's motion to withdraw but not his continuance. (transcript p.11 Line 21-24) The Court then put defendant under oath. (transcript p.11 Line 25; p.12 Line 1-4) The court did not obtain a waiver of Assistance of Counsel and she was compelled to be a witness against herself. The Court also denied defendant first time request to continue trial. (transcript p.15 Line 23-25; p.16 Line 1-9) See Fla. Stat. Ch. 394. 916(2) ("[T]he trial may be continued once upon the request of either party for not more than 120 days upon a showing of good cause, or by the court on its own motion in the interests of justice, when the person will not be substantially prejudiced. The defendant was indigent (See Record p.157 Court minutes Event Date 3/21/2024 and Exhibit one Affidavit of Indigent Status 9/28/2021) The Court failed to invoke Florida Statutory procedures which deprived her of the inquiry into the issue of her competence to stand trial. The Court also should have appointed a third mental

health expert to examine her for insanity at the time of the offense. The Court appointed Psychologist Dr. Harry Krop to examine the defendant under Fla. R. Crim. P. 3.216. Under this statute Counsel Jack R. Maro and Psychologist Dr. Harry Krop retained lawyer-client privilege and Jack R. Maro was no longer representing the defendant after the court granted his request to withdraw. The Court should have immediately assigned the Office of the Public Defender to work with her as to her next course of action. Defendant did not knowingly and intelligently waive her right to Assistance of Counsel. The Court should not have granted Counsel's request to withdraw without first determining whether she was competent to stand trial. If the Court would have assigned the Office of the Public Defender she would have had the opportunity to be counselled and it would have allowed a "second pair of eyes" criminal defense attorney to assess the Defendant. Standby Counsel would have been a most appropriate tool in this complex case. See *Langon v. State*, 791 So. 2d 1105 (Fla. 1999). This case emphasizes the court's duty to ensure a defendant's capacity to participate effectively in their defense which is compromised without adequate preparation.

Issues / Grounds / Factual Claims:

March 27, 2024 - Pre-trial Hearing

6. The trial judge violated Defendant's fundamental right to Assistance of Counsel on March 27, 2024 and deprived Defendant of her due process right to a fair trial on April 15, 2024 by failing to advise defendant of her Constitutional right to Assistance of Counsel and by failing

to advise Defendant of her Constitutional right to Assistance of Counsel and by failing to appoint the office of the Public Defender to assist her. The defendant did not make a unequivocal request to represent herself as is required for the court to accept an accused's waiver of her right to Counsel See Fla. R. Crim. P. 3.111(d)(3). Defendant also never signed a waiver of her right to counsel. Defendant's waiver was not knowing and intelligent as is required in Fla. R. Crim. P. 3.111(d)(2) (See Pre-trial transcript of March 21, 2024) The Court cannot conduct a retroactive Inquiry on defendant's waiver of her right to Counsel. Almost a week prior the Court granted Counsel's request to withdraw and erred when it did not appoint the Office of the Public Defender to represent her. It was the Court's duty to advise the defendant of the disadvantages and dangers of self-representation after she offered her Assistance of Counsel. Not to insure that she understood and was aware that it was her fault (the court's position) that she was in danger and at a disadvantage because she lacked the capacity to consult and assist her prior Counsel in preparing for her defense and did not understand the nature and object of the proceedings against her. The Court conducted an inadequate inquiry on defendant as required in 3.111(d)(1) and (2) and (3)

Issues / Grounds / Factual Claims:

April 15, 2024 - First Day of Trial

7. The trial court judge violated Defendant's fundamental right to Assistance of Counsel and right to a fair and impartial trial when the record shows the Court waited until Defendant's first day of trial to offer indigent Defendant Counsel and denied her request for a continuance. The defendant did not make a unequivocal request to represent herself for the court to accept a defendant's waiver of her right to counsel. See Fla. R. Crim. p. 3.111(d)(3). Defendant stated she would be at a disadvantage with counsel because she knew counsel would not have been effective because they would not have had time to prepare. See *Jones v. State*, 658 So. 2d 122 (Fla. Dist. Ct. App 1995) ("[A]n indigent defendant's right to effective representation include reasonable time for new counsel to prepare.") The trial court failed to obtain an adequate waiver of her right to Assistance of Counsel. Defendant did not understand the disadvantages and dangers of self-representation, the defendant made ambiguous responses and told the court she was not making the decision to represent herself without counsel. The Defendant also did not make a knowing and intelligent waiver of Assistance of Counsel. The court had failed on March 21, 2024 to observe procedures adequate to protect her right not to be tried while incompetent. The defendant was in fact incompetent and her mental condition had not changed. The defendant never signed a waiver of her right to counsel and the court erred in not appointing the Office of the Public Defender to Assist her. The court was also required under statute to appoint the public defender because she was indigent. See Fla. Stat. Section 394.916(3) ("[A]t all adversarial proceedings under this act, the person subject to this act is entitled to the assistance of counsel, and, if the person is indigent, the court must appoint the public defender."

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Issues / Grounds / Factual and Legal Claims:

April 17, 2024 - Third Day of Trial

8. On the morning of April 17, 2024 the trial court judge violated defendant's fundamental right to Assistance of Counsel by failing to renew the offer of Counsel and by failing to appoint Counsel for her when she made a demand. See Fla. Const. Art. I Section 16 ("[I]n all criminal prosecutions the accused shall, upon demand shall have the right to be heard in person, by Counsel or both.") See U.S. Const. Amend. VI ("[I]n all criminal prosecutions, the accused shall enjoy the right to have the Assistance of Counsel for his defense.") Defendant was not able to assist in her defense. The court erred when it failed to observe procedures adequate to protect her right not to be tried while incompetent and when it compelled her to be a witness against herself. See U.S. Const. Amend. V ("[N]o person shall be compelled in any criminal case to be a witness against herself.") The record shows she requested Counsel before she began when she told the Court that her expert witness, Psychologist Dr. Harry Krop, Ph.D had deemed her incompetent to proceed in the criminal proceeding. This was a critical stage of the proceeding. See *Richardson v. State*, 325 So. 3d 1012, 1015 (Fla. 1st DCA 2021) (Finding renewal of Counsel "must occur at a critical stage of the proceedings that is separate and distinct from the other parts of the trial."); Fla. R. Crim. p. 3.111(d)(5) (noting it is the duty of the trial court to renew the offer of counsel "at each subsequent stage of the proceedings at which the defendant appears without counsel.") Defendant never signed a waiver of her right to counsel. The court failed to hold a due process hearing to evaluate and determine Defendant's competency to proceed during trial while she was not able to assist in her defense because of her incompetence. The defendant had not been competent on the first and second day of trial.

(April 15 and April 16, 2024)

9. After the trial was commenced and a half of day had already occurred and after lunch recess on April 17, 2024 the trial court judge violated defendant's fundamental right to Assistance of Counsel and due process right to a fair trial by failing to conduct an adequate due process hearing on her competency to proceed, and by failing to inform her of her constitutional right to Assistance of Counsel and failing to make an inquiry into her ability to financially employ counsel and failing to appoint Defendant Assistance of Counsel (see Fla. R. Crim. p. 3.111(d)(1) ("The failure of a defendant to request counsel shall not, in itself, constitute a waiver of counsel at any stage of the proceedings.") and failing to renew the offer of Assistance of Counsel and failing to observe procedures adequate to protect her right not to be tried while incompetent and compelling her to represent and be a witness against herself while incompetent. The record shows the Court granted the State's oral request to conduct a competency examination on Defendant's competency during trial. The State informed the Court they had received an email from Defendant's expert witness and Psychologist Dr. Harry Krop stating she was incompetent to proceed. The email had already been sent to the state earlier that morning when the defendant had informed the Court that she had been deemed incompetent but the State never attempted to check their email then. The court granted the state's oral request to appoint their expert witness and Neuro Psychologist, Dr. Jason Demery to conduct an evaluation on Defendant but did not appoint a third neutral mental health provider to evaluate her which was needed at this point. The defendant was denied an impartial and fair competency hearing. Defendant was without Counsel, indigent, and had not made a knowing and intelligent waiver of Assistance of Counsel at this critical stage of the proceeding. The defendant had

the right to Counsel at this critical stage of the proceeding and the court had a duty to renew its offer of Counsel. The trial court erred when it failed to insure that the defendant had Assistance of Counsel to file her Psychologist, Dr. Harry Krop's report into the record for its review to advise the court on her competency and for appellate review. The defendant also had a right for Counsel to be present during her competency evaluation. See *Thomas v. Cunningham* (1963) ("Some have viewed the common-law prohibition as a by product of the ban against trials in absentia; the mentally incompetent defendant, though physically present in the courtroom, is in reality afforded no opportunity to defend himself.") See *United States v. Cronin*, 466 U.S. 648, 104 S.Ct. 2039, 80 L.Ed. 2d 657 (1984) ("[w]hile a criminal trial is not a game in which the participants are expected to enter the ring with a near match in skills, neither is it a sacrifice of unarmed prisoners to gladiators.") and *Williams v. Twomey*, 510 F. 2d 634, 640 (1975).

10. Fundamental and Substantial rights of the defendant were prejudiced and she did not receive a fair and impartial trial when the court erred to appoint a third mental health expert to examine her when Psychologist Dr. Harry Krop was of the opinion that she was incompetent to stand trial. The court erred when it did not order a mistrial but chose to conduct an inadequate competency hearing without relying on any reports from the mental health experts.

Defendant was also denied the right to examine and cross examine court witnesses. Sec Fla. Const. Art I Sec 10

11. Fundamental and Substantial rights of the defendant were prejudiced and she did not receive a fair and impartial trial when the court did not renew the offer of Assistance of Counsel after there was a competency hearing on April 17, 2024 and the court found

the defendant competent to proceed. (See Record case Abstract filing p. 21)
The Court erred when it failed to renew it's offer of Assistance of Counsel after the competency hearing which was a crucial stage of the proceeding. The defendant had been incompetent since March 21, 2024 and the court erred when it did not hold a competency hearing before trial. The Defendant was without Counsel and indigent on April 15, 2024 on the first day of trial and she did not knowingly and intelligently waive her right to Assistance of Counsel and she was not able to assist in her defense. See *Traylor v. State*, 596 So. 2d 957, 968 (Fla. 1992) ("[w]here the right to counsel has been properly waived, the State may proceed with the stage in issue; but the waiver applies only to the present stage and must be renewed at each subsequent crucial stage where the defendant is unrepresented. The renewal must occur at a critical stage of the proceedings that is separate and distinct from the other parts of the trial. The defendant was not represented by Counsel and was financially unable to employ Counsel and she did not competently and intelligently waive her right to Counsel on April 15, 2024 or after she was found competent during the middle of trial. This constitutes fundamental error.

Legal Claims: March 21st, 27th, 2024

and During Trial on April 15th-19th, 2024

See *Gore v. State*, 24 So. 3d 1, 9 (Fla. 2009) ("[A] defendant may not be tried and convicted of a crime if he or she is not competent to stand trial.

See *Carrion v. State*, 859 So. 2d 563, 565 (Fla. 5th DCA 2003)
"[I]f defense counsel, the state, or the trial court has

reasonable grounds to suggest that a defendant is not mentally competent to proceed the court must conduct a competency hearing.")

See *Dusky v. United States*, 362 U.S. 402, 80 S. Ct. 788, 789, 4 L. Ed. 2d 824, 825 (1960); See also Fla. Stat. Sec. 916.12(1);

See also Fla. R. Crim. P. 3.211(a)(1)

See *Pate v. Robinson*, 383 U.S. 375 S. Ct. (1966) ("[F]urthermore,

where the evidence before the court raises a "bona fide doubt" as to the defendant's competency to stand trial or enter a plea, the court must conduct a due process hearing to determine the defendant's competency for such purposes.")

See *Cochran v. State*, 925 So. 2d 370, 371 (Fla. 5th DCA 2006)

("[O]nce a court finds that it has "reasonable ground to believe that defendant is not mentally competent to proceed, the court shall immediately enter an order setting a time for a hearing to determine the defendant's mental condition.")

See Fla. R. Crim. P. 3.210 In competence to proceed: Procedure for raising the issue (1) A "material stage of a criminal proceeding" includes the trial of the case, pretrial hearings involving questions of fact on which the defendant might be expected to testify or other matters where the mental competence of the defendant is necessary for a just resolution of the issues being considered. The terms "competent", "competence", "incompetent", and "incompetence", as used in rules 3.210 - 3.219 refer to mental competence or incompetence to proceed at a material stage of a criminal proceeding. (b) Motion for Evaluation. If at or in anticipation of any material stage of a criminal proceeding the court, on its own motion or by motion of the state or defense, has reasonable grounds to believe that the defendant is not mentally competent to proceed, the court must promptly commence the process to determine the defendant's condition. The court may order the defendant to be evaluated by no more than

3 experts, as needed, and must expeditiously schedule and conduct a competency hearing(s) must be held no later than 20 days after the motion date and otherwise necessary to ensure prompt resolution, absent good cause, a final hearing conducted no later than 45 days from the motion date.

See Fla. R. Crim. P. 3.211 (a) (1) and (2) Competence to proceed: Scope of examination and report

(a) Examination by experts. On appointment by the Court, the expert must examine the defendant with respect to the issue of competence to proceed, as specified by the court in its order appointing the experts to evaluate the defendant, and must evaluate the defendant as ordered. (1) The experts must first consider factors related to the issue of whether the defendant meets the criteria for competence to proceed; that is whether the defendant has sufficient present ability to consult with counsel with a reasonable degree of rational understanding and whether the defendant has a rational, as well as factual, understanding of the pending proceedings. (2) In considering the issue of competence to proceed, the examining experts must consider and include in their reports: (A) the defendant's capacity to: (i) appreciate the charges or allegations against the defendant. (ii) appreciate the range and nature of possible penalties, if applicable, that may be imposed in the proceedings against the defendant; (iii) understand the adversary nature of the legal process. (iv) disclose to counsel facts pertinent to the proceedings at issue. (v) manifest appropriate courtroom

See Fla. R. Crim. P. 3.212 Competence to proceed: Hearing and Disposition (a) Admissibility of Evidence. The experts preparing the reports may be called by either party or the court, and additional evidence may be introduced by either party. The experts appointed by the court are deemed court witnesses whether called by the court or either

party and may be examined as such by either party.

See *Dougherty v. State*, 149 So.3d 672, 676 (Fla. 2014) ("[I]ndeed, it is necessary for courts to observe the specific hearing requirements set forth in rules 3.210-3.212 in order to safeguard a defendant's due process right to a fair trial and to provide the reviewing court with an adequate record on appeal.")

Grounds/Issues/Factual and Legal Claims: April 15th-19th, 2024; Trial Dates

11. The verdict is contrary to the law and weight of the evidence. There is a lack of proof of premeditation. The prosecution began the case in its opening statement that the defendant killed Christopher Hallett in a "fit of rage." (Trial Transcript p. 345 line 1-2) See *Mitchell v. State*, 527 So. 2d 179, 182 (Fla. 1988) ("[R]age is inconsistent with the premeditated intent to kill someone," unless there is other evidence to prove heightened premeditation beyond a reasonable doubt.") The state improperly and erroneously instructed the jury during closing argument that in order to convict the defendant of premeditated murder that they JUST had to consider whether she formed the intent to kill before the killing. (Transcript p. 1519 line 22-25; p. 1520 line 1) See *Coolen v. State*, 696 So. 2d 738, 741 (Fla. 1997) ("[P]remeditation is defined as more than a mere intent to kill; it is a fully formed conscious purpose to kill.") The state failed to exclude all reasonable hypotheses that the homicide occurred other than by a premeditated design. See *Hoefert v. State*, 617 So. 2d 1046, 1048 (Fla. 1993) ("[W]here a state fails to exclude all reasonable hypotheses that the homicide occurred other than by premeditated design, the defendant's conviction for first-degree murder cannot be sustained.") The state also did not prove malice motive. This offense occurred in the spur of the moment. The state failed to prove any evidence as to the circumstances specifically surrounding the shooting. See *Terry v. State*, 668 So. 2d 954, 964 (Fla. 1996) ("[I]n fact, the total absence of evidence as to the circumstances specifically surrounding the shooting

militates against a finding of premeditation.") See State v. Montgomery, 39 So. 3d 256 (Fla. 2010) ["[P]remeditation is not just the intent to kill the victim, it must find that the defendant did so with premeditation - a heightened level of intent.") See O. Holmes, The Common Law 50 (1881) ("[T]o deny that criminal liability... is founded on blameworthiness... would shock the moral sense of any civilized community".) The state failed to present sufficient evidence to prove two elements of murder in the first-degree and the evidence adduced at trial was not sufficient to convict her of first-degree murder beyond a reasonable doubt when the court did not instruct the jury that if the evidence introduced tends to rebut the presumption of sanity on the part of the accused and the jury entertains a reasonable doubt after due consideration of all the evidence, as to sanity, it is their duty to acquit. The state failed to prove that the death of Christopher Hallett was caused by the criminal act of the defendant and that there was a premeditated killing. The prosecution presented no evidence that the defendant performed a series of related actions arising from and performed pursuant to a single design or purpose and that these series of related actions were criminal. The State also failed to prove that there was an unlawful killing of Christopher Hallett by an act imminently dangerous to another and demonstrated a depraved mind without regard for human life and that the death was caused by the criminal act of the defendant. This offense was committed while the defendant was insane and in the heat of passion based on adequate provocation. The defendant came to Ocala, Florida from the Naval Base in Pensacola, Florida where she lived to work on paperwork that she needed for court in Kentucky. Her and Christopher Hallett had been working on paperwork for days and on ~~November 14, 2020~~ ^{NPB} November 15, 2020 after working on paperwork all day they were sitting in his living room both on the computer. A website came up on defendant's laptop and she believed that it showed children being sexually trafficked. The defendant came under the sudden belief that

Christopher Hallett was using her and that he had her children in a real time position where they were being sexually abused and trafficked. Witness Lafrana Tanis heard the defendant say during the shooting, "You're hurting my children you bastard." (Transcript p. 488 Line 6-9) The defendant testified that she asked Christopher Hallett about what she saw on the computer and he told her, "You can't have good without evil." These words became adequate provocation in her mind because it confirmed her belief that he was hurting her kids. The defendant and Shannon Tanis both heard Sonar sounds coming from inside the house on the day that Christopher Hallett was killed. The defendant was also suffering from a mental infirmity and was sleep deprived. The State's Neuropsychologist and expert mental health witness, Dr. Jason Demery testified that an infirmity was a disorder. (Transcript p. 1425 Line 1-10) and that she was suffering from a multiple personality disorder that involved some degree of paranoia at the time of the offense. (Transcript p. 1362 Line 18-25; p. 1363 Line 1-16) and (Transcript p. 1428 Line 1-22; p. 1429 Line 1-13) and that the prescription she was taking could cause side effects such as activating a person, keeping a person up and preventing them from being able to fall or stay asleep. (transcript p. 1365 Line 6-16) and that a complete lack of sleep for a night can have a reasonably significant effect on a person's cognition and emotional functioning (transcript p. 1366 Line 4-11) The defendant also suffered from attention deficit hyperactivity disorder and was not being treated for it. (transcript p. 1363 Line 6-16) The defendant then heard a voice in her head that said, "You've been through everything you've been through to be right here, right now, to kill Chris." The defendant was either suffering from an auditory religious delusion or someone caused her to hear what she believed was the voice of GOD. Defendant is a Christian and believes that her and Chris may have been targeted. Christopher Hallett was speaking out against Sharia law online. The defendant was prohibited from telling

her theory to the jury. This in itself constitutes fundamental error. Psychologist Dr. Jason Demery testified that the defendant was feeling "absolute fury" after she saw what she saw and heard what she heard (Transcript p. 1377 Line 11-25; p. 1378 Line 1-5) The defendant had been involved in ^{NPB} family court cases starting in 2010 and had been estranged from her three daughters. This has put tremendous strain on her and ^{she} only wished to be a part of her daughters lives. The Defendant believes that it is relevant to look at human frailty in this case and that the court erred when it did not fully instruct the jury on manslaughter. The prosecution and the defense presented sufficient evidence that the defendant was insane when she committed the offense. Defendant was lacking the faculty to distinguish between moral good and evil and the difference between right and wrong. See 2 Institutes of the Laws of England Statute 405 p. 247 (b) (1628) ("[+] he act and wrong of a madman [mad woman] shall not be imputed to him [her], "not because he could not engage in intentional conduct (the equivalent of the modern concept of mens rea) but because he lacked something more - "mind or discretion." God even talks about absolute fury and compares his emotion to a mother bear. See Hosea 13:8 ^{KSV} (I will them as a bear that is bereaved of her whelps... the wild beast shall tear them.)

12. Fundamental and substantial rights of the Defendant were prejudiced and she did not receive a fair and impartial trial when her expert witness and Psychologist, Dr. Harry Krop did not testify that he was of the opinion that the defendant was insane at the time of the offense because he was also of the opinion that the defendant was incompetent to stand trial at the same time.

13. Fundamental and substantial rights of the Defendant were prejudiced and she did not receive a fair and impartial trial when she was deprived of the equal protection of the laws and when she was deprived of her right as a citizen. Defendant was born in Savannah, Georgia at Candler Hospital. ^{NPB} Defendant was living on the Naval Base

Serving in the Marine Corps during this time. He knew one of defendant's father Michael Blanchard. The defendant did not have this memory resurface until after she was sentenced on April 19, 2024 so it could not have been discovered before trial. Defendant did think he looked familiar and that is why she asked him during his testimony if he knew any of the parties involved. Defendant did not have any memories of her childhood until they started to resurface in 2025 and this is due to trauma. She believes he had partial and perverted views of the defendant because of this and Defendant was denied the ability to talk to him about this nor does she think that she spent enough time with him during the one evaluation for him to get a proper mental health diagnosis on her. She believes he was ineffective and she has a right to an impartial and effective mental health evaluation.

15. Fundamental and substantial rights of the defendant ^{NPB NPB} ~~together~~ were prejudiced and she did not receive a fair and impartial trial and the court erred multiple times when it denied a nonexpert witness, Savannah Hendricks to testify to the Defendant's mental health and insanity. The court informed the jury in its instruction on the law that they could rely on non-expert witnesses testimony ~~regarding~~ ^{NPB} regarding defendant's insanity. Savannah Hendricks testimony was based on personal knowledge and observation. These errors had a cumulative effect on each other. (Transcript p. 881 Line 13-25; p. 882 Line 1-7; p. 887 Line 3-20; p. 888 Line 14-22) Because of the court's refusal of her testimony there was also a material piece of relevant testimony missing regarding defendant's insanity. The defendant had spoken to the witness on the morning after she was arrested. See *Grilliam v. State*, 514 So. 2d 1098 (Fla. 1987). ("[w]itness who is not a medical expert can testify about a person's mental condition, provided the testimony is based on personal

Knowledge or observation.")

16. Fundamental and substantial rights of the defendant were prejudiced and she did not receive a fair and impartial trial and the court erred multiple times when it did not allow her mother and nonexpert witness to testify to her mental health condition and insanity and there was a material piece of relevant testimony missing regarding her insanity.

17. Fundamental and substantial rights of the defendant were prejudiced and she did not receive a fair and impartial trial and the court erred when during defendant opening argument the state objected thirteen times and the court sustained every objection and when the court stopped her opening statement and made the jury leave the courtroom and then did not allow her to finish making her opening statement to the jury once they returned. These multiple errors had a cumulative effect on one another.

18. Fundamental and substantial rights of the defendant were prejudiced and she did not receive a fair and impartial trial and the court erred when it failed to insure defendant was present in the courtroom at the commencement of the selection of the jury. The Court told the state that they would readdress how many jurors were to be examined once the defendant was present when the state said she had a right to be there but the Court failed to readdress it with the defendant once she was present. The Court then erred when it did not excuse prospective Juror #35 Stacy Durando on defendant's objection on challenge for cause because her mind was not free of all interest, bias, and prejudice concerning defendant. She stated that Q Anon followers were conspiracy theorists, delusional, and she would think negatively about them. (Transcript p. 198 Line 14-23; p. 199 Line 3-6) If the court

would have excused her then there would not have been enough jurors plus an alternate. Defendant believes this is why the bias juror was not excused. The record shows that the court was trying to avoid having to question more jurors and this prejudiced her. See *Shaw v. State*, 422 So. 2d 20 (Fla. 2nd DCA 1982) ("[F]or all purposes of an accused's constitutional right to be present at all stages of a trial, the trial runs from the commencement of the selection of the jury through the discharge of the jury.") See *Snyder v. Massachusetts*, 291 U.S. 97, 54 S. Ct. 330, 78 L. Ed. 674 ("[T]he confrontation clause of the Sixth Amendment gives the accused a right to be present at all stages of the proceedings where fundamental fairness might be thwarted by his absence.")

^ Fundamental and Substantial rights of the defendant were prejudiced and she did not receive a fair and impartial trial when Prospective Juror #28/Juror #10 Jorge Raya was not truthful with the court when the jurors were asked if they had been involved in the court system in any manner whatsoever. He had a previous arrest record and had been charged with driving under the influence and was on court probation for that crime. Three other prospective jurors were stricken for cause when asked that same question. (Transcript p. 207-210 Line 7-Line 16)

20. Fundamental and Substantial rights of the defendant were prejudiced and she did not receive a fair and impartial trial and the court erred when it allowed body camera video footage of the defendant filmed by a Georgia State Law Enforcement Officer Ryan Willis (Exhibit M and #9) to be admitted into evidence over her objection. Defendant has a privilege not to be compelled to be a witness against herself. Defendant had been detained and had not been apprised of her rights. This video was used against her in trial. This footage also contained privileged communication

between husband and wife and should not have been disclosed. He had been detained as well and was serving active duty in the United States Coastguard. See U.S. Const. Amend. V. ("[N]o person shall be... compelled in any criminal case to be a witness against themselves.") See Fla. Const. Art. I Section 9 ("[N]o person shall be... compelled in any criminal matter to be a witness against oneself.") See *Miranda v. Arizona*, 384 U.S. 436, 467 (1966) and Quoting *Penna v. State* (Fla. 4th DCA 2025) ("[T]he accused must be adequately and effectively apprised of his rights and the exercise of those rights must be fully honored.")

21. Fundamental and substantial rights of the defendant were prejudiced and she did not receive a fair and impartial trial and the court erred when it failed to grant defendant's motion to compel the state to disclose brady evidence and allowed material relevant evidence to be excluded from the trial. One item was a recording of Shannon Tanis saying that the defendant was insane and the second item was a message that she received from Christopher Halletton Facebook telling her that her kids were in Ocala, Florida. The defendant was incarcerated and could not obtain this evidence which proves her innocence.

22. Fundamental and substantial rights of the defendant were prejudiced and she did not receive a fair and impartial trial and the court erred when it failed to grant defendant's request to take judicial notice of a case from the Commonwealth of Kentucky (Case No. 2015-CI-00117 wherein the court found her extremely unstable and irrational to the point where the court questioned whether she had untreated mental health issues (Transcript p. 283-288; Record p. 299-305) and when the court refused to give the jury the instruction with the insanity instruction that if evidence had been presented that a court had deemed her legally insane

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that they had to assume that she was insane. The defendant request^{ed} this instruction

23. The court erred when it did not allow the defendant to ask witness and police officer John Lightle if he was aware of anyone in this case that had a personal Vendetta against her (transcript p. 860 Line 16-21) and if he was aware of any technologies that existed that were weapons and were used against American citizens (transcript p. 860 Line 22-25; p. 861 Line 1-8) and when the judge did not make a ruling on defendant's objection to John Lightle telling the jury that a murder had occurred and the State claiming he was "gunned down." (Transcript p. 829 Line 16-21) and when the court allowed the State over defendant's objection to ask him if he was able to confirm and understand that the defendant held beliefs that were like those of a Sovereign citizen and consistent with people who believe in the QAnon Conspiracy and when the State asked him to describe the QAnon Conspiracy (Transcript p. 818 1-25; p. 819 1-14) and when the state asked him again if he was familiar with people who have Sovereign-citizen type beliefs over defendant's objection (Transcript p. 1067 Line 5-11) and when Sovereign citizen was mentioned again (Transcript p. 530 Line 1-25; p. 531 Line 1-10) All of these errors combined if not some individually fundamental in themselves had a cumulative effect on one another.

24. Fundamental and substantial rights of the Defendant were prejudiced and she did not receive a fair and impartial trial when on April 17, 2024 after trial defendant was placed in suicide prevention at the jail and after her competency hearing and not given access to any of her evidence and paperwork that she needed for trial. On the morning of April 18, 2024 she informed the court of this. The court did not insure she got what she needed to assist her in her defense. The court erred when it did not renew its offer of Assistance of Counsel at this critical stage of the proceeding.

25. Fundamental and substantial rights of the defendant were prejudiced and she did not receive a fair and impartial trial when the State claimed during its opening statement that defendant was a sovereign citizen and part of a far-right American political movement (Transcript p. 349 Line 11-25) and that because of her age and socioeconomic status she was not equipped to be a parent, that DCF came into her life when her first child was a year old, that she was using drugs and was violent, and that a judge terminated her parental rights (Transcript p. 348 Line 16-25). All of this is untrue. All of these errors if not fundamental themselves, had a cumulative effect on each other. See *Green v. State*, 427 So. 2d 1036, 1038 (Fla. 3d DCA 1983) (Quoting "[T]here is no reason for a prosecuting attorney to be rude to a person on trial.")

26. Fundamental and substantial rights of the defendant were prejudiced and she did not receive a fair and impartial trial when during the State's closing argument the court said defendant held odd, extremist, QAnon, and Sovereign beliefs (Transcript p. 1514 Line 23-24), she is not insane now (Transcript p. 1514 Line 25) and that if I don't get what I want there is nothing she won't do and no rule she won't break to get what she wants and that this case is just a continuation and an escalation of the way she lived her life. (Transcript p. 1515 Line 2-8) See *Green v. State*, 427 So. 2d 1036, 1038 (Fla. 3d DCA 1983) and when the state played on the jury's emotions by claiming it was sorry that they had to see the pictures of Christopher Hallett. The State also did not confine their argument to the facts and evidence presented to the jury and the legal conclusions from that evidence. The state was dishonest about the evidence presented. The state told the jury that Lafrana Tanis testified that the shell casing fell at her feet right as she got to the entrance of the kitchen. (Transcript p. 1529 Line 17-25; p. 1530 Line 1-14) and that Christopher Hallett was not in the living room in the chair [on computer] but that he was in the kitchen (Transcript p. 1530 Line 15-21) and that the defendant was in the kitchen for all the gunshots and that she is lying to protect herself. (Transcript p. 1531 Line 15-19) This is simply untrue. Eye witness Lafrana Tanis testified that the last place she saw the Defendant and Christopher Hallett was in the living room

(Transcript p. 478 Line 17-25); and that when she heard a noise and ran out of her bedroom and stopped in the hallway where the wall arched a shell casing fell at her feet and she saw defendant holding a gun pointed at Christopher Hallett and saw her shoot him. (Transcript p. 479 Line 17-25; p. 480 Line 1) Pictures produced in evidence proves this (Exhibit C / State's # 4 / picture # 14) (Transcript p. 445 Line 7-11) The State also did not refer to anything from the audio recording of the defendant recorded right after the incident besides that the defendant said she prayed and thought about it before she did it. This only proves that the Defendant did not know what she was doing was wrong which proves insanity. The State did not refer to what Lafrana Tanis heard defendant say during the shooting. This is all because this is not a case of premeditated murder. The verdict is contrary to the law and contrary to the weight of the evidence. All of these individual errors if not individually fundamental all had a cumulative effect on one another.

27. Fundamental and substantial rights of the defendant were prejudiced and she did not receive a fair and impartial trial and the court erred when it did not allow the defendant to question Neuropsychologist on multiple issues. (Transcript p. 1386 Line 3-10; p. 1414 Line 16-25; p. 1415 Line 1-18; p. 1417 Line 20-25; p. 1418 Line 1-13; p. 1420 Line 18-25; p. 1421 Line 11-14; p. 1422 Line 16-25; p. 1423 Line 1-7) These errors if not all ~~errors~~^{NFB} individually fundamental all together had a cumulative effect on one another.

28. Fundamental and substantial rights of the defendant were prejudiced and she did not receive a fair and impartial trial and the court erred when it failed to instruct the jury concerning the burden of proof surrounding insanity. The Court failed to instruct the jury that once the presumption of sanity is rebutted the prosecution must prove sanity beyond every reasonable doubt. This error is a fundamental error because the omission is pertinent and

and material to what the jury had to consider in order to convict. The error also reached down into the validity of the trial itself to the extent that the verdict of guilty could not have been obtained without the assistance of the alleged error. See *State v. Delva*, 575 So. 2d 643, 645 (Fla. 1991) ("[T]o justify not imposing the contemporaneous objection rule," the error must reach down into the validity of the trial itself to the extent that a verdict of guilty could not have been obtained without the assistance of the alleged error." In other words, "fundamental error occurs only when the omission is pertinent or material to what the jury must consider in order to convict.") The defendant was entitled to have the jury be informed of this. The standard jury instruction was given for Insanity 3.6(a) (See Record p. 542; Transcript p. 1507-1509 Line 5 - Line 10) and the Standard jury instruction for Plea of Not Guilty; Reasonable Doubt; and Burden of Proof 3.7 was given (See Record p. 544; Transcript p. 1509-1510 Line 11 - Line 23) The defendant filed a motion for leave to file notice of intent to rely upon insanity as a defense and notice of intent to rely on Defense of Insanity. (Filed 4/17/2023; Filing #171129910; Record p. 100-105) The Court granted defendant's motion for leave to file notice of intent to rely upon insanity as a defense (Filed 6/1/2023; Filing #174440709; Record p. 133-135) Once these motions were filed and then accepted by the court the burden of proof shifted to the prosecution to prove that the defendant was sane beyond every reasonable doubt and the defendant was entitled to have the jury be informed of this. See *Thomson v. State*, 78 Fla. 400, 83 So. 291 (Fla. 1919) ("[W]here the defense of insanity is relied upon, the rule in force in this state is that if the evidence introduced tends to rebut the presumption of sanity on the part of the accused, and the jury entertain a reasonable doubt, after due consideration of all the evidence, as to sanity, it is their duty to acquit.") See *Yohn v. State*, 476 So. 2d 123 (Fla. 1985) ("[T]he burden shifts to the State to prove, beyond a reasonable doubt, the

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accused was sane.") The verdict sheet gave jury the option to check not guilty by reason of insanity or not guilty. (See Record p. 560 Verdict Sheet) The prosecution said, "The most important part about this, unlike the charge of first-degree murder, that's our burden. The state has to prove that to you beyond a reasonable doubt. We have to prove that. When we get to this, it's on her. The burden is on her. The defendant has the burden of proving the defense of insanity by clear and convincing evidence. (Transcript p. 1534 Line 12-18) At no time does the state instruct the jury that the state has to prove the defendant is sane beyond every reasonable doubt once the presumption of sanity is rebutted.

29. Fundamental and substantial rights of the defendant were prejudiced and she did not receive a fair and impartial trial and the court erred when it erroneously instructed the jury using the Standard Jury Instruction on pro-se defendant 1.6 before closing arguments, a separate and distinct part of the trial. The Court instructed the jury that the defendant was exercising her constitutional right to act as her own attorney. This was false the defendant had asked for Assistance of Counsel on April 17, 2024 when she informed the court that her psychologist and expert witness Dr. Harry Krop had deemed her incompetent. The court denied her request and never renewed its offer of Assistance of Counsel and then after a competency evaluation and hearing was later held on April 17, 2024 and the court found the defendant ^{NPB} ~~competent~~ competent it did not renew its offer of Assistance of Counsel. The court erred when it did not renew its offer of Assistance of Counsel at closing argument for the defendant which is a crucial stage of the proceeding. See *Traylor v. State*, 596 So. 2d 957, 968 (Fla. 1992)

30. The court erred when it erroneously instructed the jury that they could only consider whether the defendant committed first-degree

murder when considering whether the defendant committed first-degree murder when considering whether she was insane. This incorrect instruction was in the standard Jury instruction on Insanity 3.6(a) This deprived her of the jury's full consideration on her defense of insanity concerning the lesser included offenses of second-degree murder and manslaughter.

31. The Court erred when it did not instruct the jury that they could rely on all relevant evidence introduced at trial.

32. The State improperly and erroneously instructed the jury on the law concerning what the definition of premeditation is. The state explained that premeditation was the same thing that manslaughter is as written in the standard Jury Instruction on Manslaughter 7.7 See State v. Montgomery, 39 So. 3d 256 (Fla. 2010) ("[P]remeditation is not just the intent to kill the victim, it must find that the defendant did so with premeditation - a heightened level of intent.")

OATH

Under penalties of perjury, I declare that I have read the foregoing motion, or had it read to me, that I understand the motion's content, and that all of the facts alleged in the motion are true and correct.

15/ Neely Petrie-Blanchard

Neely Petrie-Blanchard
MCJ# A0259736

Certifications and Acknowledgment

I certify that the motion is filed in good faith, that I have a reasonable belief that the motion is timely filed, has potential merit, and does not duplicate previous motions that have been disposed of by the court. I understand English and have read the foregoing motion. I understand that I am subject to judicial or administrative sanctions if this motion is found to be frivolous, malicious, made in bad faith or with reckless disregard for the truth, or an abuse of the legal process.

1s/ Neely Petrie-Blanchard

Neely petrie-Blanchard
MCJ# A0259736

NPB

~~Certificate of Mailing~~

Certificate of mailing

#7282

I certify that I placed this document in the hands of A. Oleskevich at the Marion County Jail for mailing and delivery on October 14, 2026 and a copy has been

furnished to Amy
Berndt and Toby Hunt,
Assistant State Attorneys

at 110 NW 1st Avenue, Suite
5000, Ocala, Florida 34475

1s/ Neely Petrie-Blanchard

Neely petrie-Blanchard
MCJ# A0259736

c/o Marion County Jail
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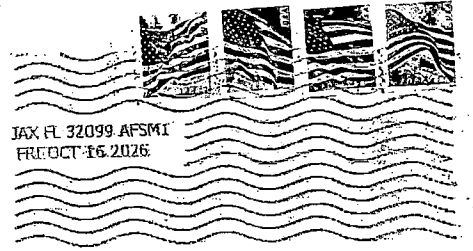
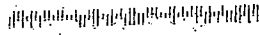
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