

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA**

STATE OF FLORIDA,
Plaintiff,

CASE NO. 18-1958CF10A
JUDGE: ELIZABETH SCHERER

vs.

NIKOLAS JACOB CRUZ,
Defendant.

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STATE'S NOTICE OF INTENT TO SEEK DEATH PENALTY

COMES NOW the State of Florida, through State Attorney Michael J. Satz, and files its Notice of Intent to Seek Death Penalty in this capital case pursuant to Rule 3.181 and Rule 3.202, Florida Rules of Criminal Procedure, §782.04(1)(b) and §921.141(6), Florida Statutes, and *Dillbeck v. State*, 643 So.2d 1027 (Fla. 1994), stating as follows:

1. The State intends to seek the death penalty against defendant, NIKOLAS JACOB CRUZ, and hereby gives written notice of same in compliance with Florida Statute 782.04(1)(b) and Rule 3.202(a), F.R.Cr.P

2. If it shall be the intention of defendant to present, during the penalty phase of the trial, expert testimony of a mental health professional, who has tested, evaluated, or examined the defendant, in order to establish statutory or non-statutory mental mitigating circumstances, the defendant must give written notice of intent to present such testimony. *See* Rule 3.202(b), F.R.Cr.P.

3. Defendant must give notice of intent to present expert testimony of mental mitigation not less than 20 days before trial. The notice shall contain a statement of particulars listing the statutory and nonstatutory mental mitigating circumstances the defendant expects to establish through expert testimony and the names and addresses of the mental health experts by whom the defendant expects to establish mental mitigation, insofar as is possible. *See* Rule 3.202(c), F.R.Cr.P.

4. If the defendant is going to introduce at the penalty phase such mental health professional testimony, the State hereby requests this Court to order that the defendant be examined by mental health experts chosen by the State, within 48 hours after the defendant shall have been convicted of capital murder. Attorneys for the State and defendant may be present at the examination. The examination shall be limited to those mitigating circumstances the defendant expects to establish through expert testimony. *See* Rule 3.202(d), F.R.Cr.P.

5. If the defendant refuses to be examined by or fully cooperate with the State's mental health experts, the State would request that the Court, in its discretion:

(1) order the defense to allow the state's experts to review all mental health reports, tests, and evaluations by the defendant's mental health experts; or

(2) prohibit defense mental health experts from testifying concerning mental health tests, evaluations, or examinations of the Defendant. *See* Rule 3.202(3), F.R.Cr.P.

6. The State, hereby gives notice of the following aggravating factors the State intends to prove and has reason to believe it can prove beyond a reasonable doubt:

- 921.141(6)(b) that the defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person (this includes contemporaneous convictions of homicide and attempted murder);
- 921.141(6)(c) that the defendant knowingly created a great risk of death to many persons;
- 921.141(6)(d) that the capital felony was committed while the defendant was engaged in the commission of a burglary;
- 921.141(6)(g) that the capital felony was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws;

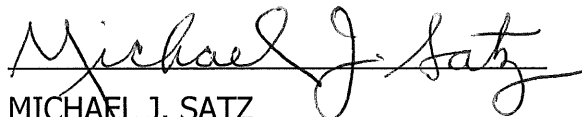
- 921.141(6)(h) that the capital felony was especially heinous, atrocious or cruel;
- 921.141(6)(i) that the capital felony was a homicide and was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification;
- 921.141(6)(k) that the victim of the capital felony was an elected or appointed public official engaged in the performance of his official duties if the motive for the capital felony was related, in whole or in part, to the victim's official capacity.

WHEREFORE, the State respectfully submits the foregoing pursuant to Rules of Criminal Procedure 3.181 and 3.202, Florida Statutes 782.04(1)(b) and 921.141(6) and the appertaining case law.

I HEREBY CERTIFY that a true copy hereof has been furnished via e-file this 13TH day of March A.D. 2018, to: **Melisa McNeill, Esq.**, Office of the Public Defender, Attorney for the Defendant.

Respectfully submitted,

MICHAEL J. SATZ
State Attorney, 17th Judicial Circuit



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cc: Honorable Judge Elizabeth Scherer