IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT,
OF THE STATE OF FLORIDA, IN AND FOR LAKE COUNTY

STATE OF FLORIDA CASE NO. 2020-CF-002361-A

VS

LAURIE SHAVER

STATE'S RESPONSE TO THE DEFENDANT'S NOTICE OF INTENT TO INTRODUCE PRIOR BAD ACTS AND REQUEST FOR JUDICIAL NOTICE

COMES NOW, the State acting by and through NICHOLAS S CAMUCCIO, Assistant State Attorney in the above styled case and makes its response to the Defendant's Notice of Intent to Introduce Prior Bad Acts of the Alleged Victim and Request for Judicial Notice filed by the Defense Counsel and states the following in support:

1. Laurie Shaver was charged by Information with Murder in the Second Degree and Accessory After the Fact to Second Degree Murder on October 1, 2020.
2. On January 4, 2022, the defense filed two Notices of Intent to Rely upon Business Records Exception. These Notices involved some of the same documents referenced in the Defendant's Notice. Specifically, the records from 2014-DR-1502 and 2014-MM-5308.
3. A Motion to Strike these Notices was filed by the State on November 22, 2022, as they were not actually business records of the clerk and the fact that they contained inadmissible hearsay.
4. In numerous court hearings defense counsel has stated that the defendant's daughter, who would have been approximately eight years old at the time of the crime, was in

fact the person who shot and killed the victim and that she did so in defense of her mother.

"Reverse" Williams Rule

The Florida Supreme Court first upheld the use of "Reverse" Williams Rule evidence in Rivera v. State, 561 So.2d 536 (Fla. 1990). The defendant sought to introduce evidence of a homicide that occurred while he was in jail on a separate homicide charge, in an effort to show the two homicides were committed by the same person, and, since he was in jail at the time of the second, could not have committed that murder. Id. at 539. The defendant pointed to a number of similarities including the fact that both victims were female, abducted while they were riding bicycles, their bodies were found in the same general area and that pantyhose was discovered in the area of their bodies. Id. at 540. The Court ruled that those similarities were not sufficient to allow admission of the other homicide. Id. The court pointed to several differences including the difference in age of the victims, the difference in the place of their abduction, the absence of sexual assault in one case that was present in the other and that one body was fully clothed and the other had only a pair of socks on it. Id.

In State v. Savino, 567 So.2d 892 (Fla. 1990) the Court reaffirmed its decision in Rivera and also held that there was not a lower standard of similarity required for admission of evidence of other crimes when offered by the defendant. The Court explained:

> If a defendant's purpose is to shift suspicion from himself to another person, evidence of past criminal conduct of that person should be of such nature that it would be admissible if that person were on trial for the present offense. Evidence of bad character or propensity to commit a crime by another would not be admitted; such evidence should benefit a criminal defendant no more than it would benefit the state. Relevance and weighing the probative value of the evidence against the possible prejudicial effect are the determinative factors governing the admissibility of similar-fact evidence of other crimes when offered by the state. These same factors should apply when the defendant offers such evidence. *(emphasis added)*.

Id. at 894.

The Court also reaffirmed the degree of similarity which must exist to allow admission of evidence of other crimes when it explained, "When the purported relevance of past crimes is to identify the perpetrator of the crime being tried, we have required a close similarity of facts, a unique or "fingerprint" type of information for the evidence to be relevant." Id. at 894.

According to Florida Statute §90.404(2)(a), similar fact evidence is admissible when relevant to prove a material fact in issue, including but not limited to, proof of motive, opportunity, intent, preparation, plan, knowledge, identity or absence of mistake or accident, but is inadmissible when the evidence is relevant solely to prove bad character or propensity. *Williams v. State*, 110 So. 2d 654, (Fla. 1959). The offering party must show that the previous action occurred by clear and convincing evidence. *See McLean v. State,* 934 So. 2d 1248, 1262 (Fla. 2006).

Before admitting *Williams* rule evidence, it is incumbent upon the trial court to make multiple determinations, including whether the individual committed the prior crime, whether the prior crime meets the similarity requirements necessary to be relevant as set forth in our prior case law, whether the prior crime is too remote so as to diminish its relevance, and finally, whether the prejudicial effect of the prior crime substantially outweighs its probative value.

Robertson v. State, 829 So.2d 901, 907–08 (Fla.2002).

JUDICIAL NOTICE

In order to prove the facts in support of the Defendant's Reverse Williams Rule Notice, the defense is requesting the Court take judicial notice of certain documents from the court files from Lake County. These records from 2014-DR-1502, 2014-DR-1927 and 2014-MM-5308 are not admissible via Judicial Notice or as Business Records as presented.

Contained within the materials the defense seeks to introduce in this manner include:

1. A Petition for Injunction For Protection Against Domestic Violence (2014-DR-1927)
2. An Order Dissolving the Injunction (2014-DR-1927)
3. A Petition for Injunction For Protection Against Domestic Violence (2014-DR-1502)
4. An Order Dissolving the Injunction (2014-DR-1502)
5. A Statement of Desire Not to Continue Injunction and Withdraw Petition of Injunction (2014-DR-1502)
6. Letters and Correspondence Relating to those Injunctions
7. Probable Cause Affidavit (2014-MM-5308)
8. Nolle Prosequi (2014-MM-5308)

"When a matter is judicially noticed, '[I]t is taken as true without necessity of offering evidence by party who should ordinarily have done so'. Thus historically, doctrine of '[J]udicial notice has been applied to self-evident truths that no reasonable person could question, and to truisms that approach platitudes of banalities'." *Maradie v. Maradie*, 680 So. 2d 538 (1st DCA 1996) *quoting from Makos v. Prince*, 64 So. 2d 670 (Fla. 1953) and *Hardy v. Johns-Manville Sales Corp.* 681 F. 2d 334 (5th Cir 1982). Furthermore, Judicial Notice does not allow the admission of all hearsay statements contained within those records. *See Hartong v. Bernhart*, 128 So. 3d 858 (5th DCA 2013). For matters contained within those files, there must be applicable hearsay exceptions. *Id*.

Nothing within these documents amounts to the type of matter would be considered "common and general knowledge, authoritatively established and free from doubt or uncertainty" that Judicial Notice was created to address. *See Nielsen v. Carney Groves, Inc.*, 159 So. 2d 489

(2nd DCA, 1964). Offering the statements contained in the records from the misdemeanor case or the injunction cases in order to prove the truth of the matter asserted is nothing more than hearsay. The court should not consider this evidence as presented in this fashion or allow it to be presented to the jury.

WHEREFORE the State would show that it has responded to the Defendant's Motion.

Respectfully submitted this 7th day of December, 2023.

/s/ NICHOLAS S CAMUCCIO
NICHOLAS S CAMUCCIO
Assistant State Attorney
Florida Bar No. 0411809
550 W Main St - P O Box 7800
Tavares, FL 32778
eservicelake@sao5.org
(352) 742-4236

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above has been furnished to Jeffrey Wiggs 307 N Barrow Ave Tavares, FL 32778, by hand or mail delivery or electronic service this 7th day of December, 2023.

/s/ NICHOLAS S CAMUCCIO
NICHOLAS S CAMUCCIO