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

STATE OF FLORIDA

v. **CASE NO:** 2020-CF-2361

LAURIE LEIGH SHAVER,
Defendant.
_____/

ORDER ON DEFENDANT'S NOTICE OF INTENT TO INTRODUCE PRIOR BAD ACTS AND REQUEST FOR JUDICIAL NOTICE

THIS CAUSE came before the Court on the State's MOTION AND NOTICE OF INTENT TO INTRODUCE PRIOR BAD ACTS OF THE ALLEGED VICTIM AND REQUEST FOR JUDICIAL NOTICE (hereafter the "Defendant's Notice") filed on June 1, 2023 (mailbox rule). An evidentiary hearing was held on this matter on December 14, 2023. The Defendant was present, represented by Jeffrey W. Wiggs, Esq.; and the State was represented by Nicholas Camuccio, Assistant State Attorney. The Court, having reviewed the Defendant's Notice, the Court File, the applicable case law, and having heard testimony, and otherwise being duly advised, the Court finds as follows:

BACKGROUND

1. The Defendant in this case, LAURIE LEIGH SHAVER, has been charged with murder in the second degree with a firearm pursuant to § 782.04(2) of the Florida Statutes (Count I) and accessory after the fact to a life felony pursuant to § 777.03 of the Florida Statutes (Count II) following the October 1, 2020 filing by the State of an Amended Information in this case.

2. The State in this case brought the given charges against the Defendant based on allegations that the Defendant killed her husband MICHAEL DOUGLAS SHAVER (Decedent), then burying his corpse in the backyard of their home. On March 9, 2018, Deputies served a search warrant for a

cadaver dog and ground penetrating radar at the property of the Defendant and Decedent. During the search, the skeletal remains of the Decedent were unearthed approximately three (3) feet beneath a concrete slab/fire pit. The Decedent's purported cause and manner of death was homicide by a gunshot wound to the back of the head with a single .38 caliber projectile.

3. The Defendant's current defense, as articulated in the Defendant's Notice, is that either the Defendant or her minor child shot the Decedent while trying to defend themselves or each other during an incident of domestic violence.

4. The Defendant's Notice now seeks to admit certain documents from the court files from Lake County. These records stem from cases 2014-DR-1502, 2014-DR-1927 and 2014-MM-5308, and consist of the following records:

1) Petition for Injunction for Protection Against Domestic Violence (2014-DR-1927)

2) Order Dissolving the Injunction (2014-DR-1927)

3) Petition for Injunction for Protection Against Domestic Violence (2014-DR-1502)

4) Order Dissolving the Injunction (2014-DR-1502)

5) Statement of Desire Not to Continue Injunction for Protection (2014-DR-1502)

6) Letters and Correspondence Relating to the aforementioned Injunctions

7) Probable Cause Affidavit (2014-MM-5308)

8) Nolle Prosequi (2014-MM-5308)

5. The State has argued that the contents of the records sought to be introduced into evidence pursuant to the Defendant's Notice are not admissible as judicial notice or as business records.

6. The first six (6) records sought to be introduced, relating to case numbers 2014-DR-1927 and 2014-DR-1502, consist of records and filings covering injunctions dissolved in 2014. Said documents consist entirely of filings relating to the recording of the injunctions in the Court system and hearsay statements by the Defendant, and friends and family of the Defendant, in furtherance of said

injunctions. The Defendant seeks to have the foregoing documents admitted as court records under § 90.202(6) of the Florida Statutes, Florida Rule of Evidence.

7. The remaining documents the Defendant in this case wishes to have this Court take judicial notice of and admit as evidence under the reverse *Williams* rule exception is an Arrest Affidavit which addresses an alleged domestic violence incident in case 2014-MM-5308, and a Nolle Prosequi in said case.

JUDICIAL NOTICE OF COURT RECORDS

8. A court may take judicial notice of "[r]ecords of any court of this state or of any court of record of the United States or of any state, territory, or jurisdiction of the United States." § 90.202(6) Fla. Stat.

9. However, "[h]earsay cannot be considered merely because it is contained in a court file." *Taylor v. State*, 969 So. 2d 489, 491 (Fla. 5th DCA 2007). "While a trial court may take judicial notice of court records, it does not follow that section 90.202(6), Florida Statutes (2006), permits the wholesale admission of hearsay statements contained within those court records." *Id.* (citing to *Burgess v. State*, 831 So.2d 137 (Fla.2002)).

10. At issue in *Burgess v. State*, 831 So. 2d 137 (Fla. 2002) the petitioner in that case sought "relief based solely on the information contained in a police report, which has never been subjected to cross examination or any adversarial testing as to the reliability of the facts contained therein." *Id.* at 140. Moreoever, the Supreme Court in *Burgess* considered that "[a] police report or criminal arrest affidavit is not admissible into evidence as a public record exception to the hearsay rule because that exception expressly excludes 'in criminal cases matters observed by a police officer or other law enforcement personnel.'" *Id.* (citing to § 90.803(8), Fla. Stat. (1999)). The Supreme Court of Florida in *Burgess* cited to an earlier case for the proposition that:

> We have never held that such otherwise inadmissible documents are automatically

admissible just because they were included in a judicially noticed court file. To the contrary, we find that documents contained in a court file, even if that entire court file is judicially noticed, are still subject to the same rules of evidence to which all evidence must adhere.

Id. at 141 (citing to *Stoll v. State*, 762 So.2d 870, 876-77 (Fla.2000)).

WILLIAMS RULE EVIDENCE

11. "A trial court has wide discretion concerning the admissibility of evidence, and a ruling on admissibility will not be disturbed unless there has been an abuse of discretion." *Irving v. State*, 627 So.2d 92, 94 (Fla. 3d DCA 1993). Evidence of bad acts not included in the charged offenses is generally referred to as "collateral crimes evidence." *Dorsett v. State*, 944 So. 2d 1207, 1212 (Fla. 3d DCA 2006). Collateral crimes evidence includes (1) similar fact evidence, which is governed by § 90.404, and is commonly referred to as "*Williams* rule evidence," and (2) all other relevant evidence, admissible pursuant to § 90.402. Similar fact evidence under § 90.404 is evidence totally unrelated to the charged offenses and is admissible to prove a material fact in issue, such as motive, intent, preparation, plan, knowledge, identity, or absence of mistake or accident. *Id.*

12. The "*Williams* rule" outlined in *Williams v. State*, 110 So.2d 654 (Fla. 1959) was codified in § 90.404(2)(a), Florida Statutes, which provides that:

> "Similar fact evidence of other crimes, wrongs, or acts is admissible when relevant to prove a material fact in issue, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, but it is inadmissible when the evidence is relevant solely to prove bad character or propensity."

13. In determining the admissibility of collateral crime evidence, the trial court must make two determinations: (1) whether the evidence is relevant or material to some aspect of the offense being tried, and (2) whether the probative value is substantially outweighed by any prejudice." *Ricketts v. State*, 125 So.3d 194, 195 (Fla. 4th DCA 2013) (quoting *Santiago v. State*, 70 So.3d 720, 725 (Fla.

4th DCA 2011)). Lastly, 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).

14. In *State v. Savino*, 567 So. 2d 892 (Fla. 1990), the defendant had sought to introduce "reverse *Williams* Rule" evidence tending to establish that his wife, the young victim's natural mother, killed her one-month-old daughter from another marriage with a blunt instrument seven years previously in another state as part of the defense theory that his wife was responsible for killing the victim. The trial court in *Savino* refused to allow the defendant to present this evidence, the Supreme Court upheld the holding of the trial court in *Savino.*

ANALYSIS

15. As to the aforementioned documents relating to injunction cases 2014-DR-1927 and 2014-DR-1502, and the arrest affidavit in case 2014-MM-5308, said documents are hearsay without exception so far as may be determined by the Court at this time. The given statements within the noted documents are clearly hearsay because each "is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." § 90.801(1)(c), Fla. Stat. (2023); see also *Stoll v. State*, 762 So. 2d 870, 876 (Fla. 2000).

16. The Court finds that it would be appropriate to judicially notice, pursuant to Florida Statute 90.20(6), the specific documents contained in the three separate Lake County court case files 2014-DR-1927, 2014-DR-1502, and 2014-MM-5308. However, the contents of said documents are not automatically admissible at any hearing or trial.

17. Regarding the reverse Williams Rule issue, the Court finds that Defendant's request to introduce the prior bad acts of the victim in the present case in order to show the reasonableness of the decision of the Defendant's daughter, who the defense alleges shot the victim is not reverse Williams Rule evidence, but evidence of the victim's character. Defendant may be permitted to introduce evidence of the prior bad acts of the victim through character, reputation or as evidence of

the reasonableness of justifiable use of deadly force in protecting another upon Defendant establishing the proper foundation.

IT IS THEREFORE,

ORDERD AND ADJUDGED:

1) That the MOTION AND NOTICE OF INTENT TO INTRODUCE PRIOR BAD ACTS OF THE ALLEGED VICTIM AND REQUEST FOR JUDICIAL NOTICE filed on June 1, 2023, is **GRANTED-IN-PART** and **DENIED-IN-PART**.
2) The Motion and Notice of Intent to Introduce Prior Bad Acts of the Alleged Victim is **DENIED**. The Defendant's attempt to introduce evidence of the prior bad acts of the victim in the present case in order to show the reasonableness of the decision of the Defendant's daughter, who the defense alleges shot the victim, is not properly admitted as reverse Williams Rule evidence.
3) The Court shall take judicial notice of the Petition for Injunction for Protection Against Domestic Violence and Order Dissolving Injunction in case 2014-DR-1927, the Petition for Injunction for Protection Against Domestic Violence, Order Dissolving Injunction, and Statement of Desire not to Continue Injunction for Protection in case 2014-DR 1502, the Letters and Correspondence relating to the aforementioned Injunctions, and the Probable Cause Affidavit and Nolle Prosequi in case 2014-MM-5308, the motion is **GRANTED-IN-PART**.
4) The Court shall not allow the explicit contents of the aforementioned documents from cases 2014-DR-1927, 2014-DR-1502, and 2014-MM-5308 into the record at this time. To the extent the Defendant is requesting this Court to take judicial notice of the

contents of the aforementioned documents contained in the respective court files, the motion is **DENIED**.

DONE AND ORDERED at Tavares, Lake County, Florida this 9th day of January, 2024.

CARY F. RADA, Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing has been provided by E-Mail/U.S. Mail/Inter-Office, Mail/Fax this 9th day of January, 2024, to the following:

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