IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA IN AND FOR PINELLAS COUNTY CRIMINAL DIVISION

STATE OF FLORIDA, **CASE NO.: 23-03157-CF**

v.

DIVISION: K

THOMAS ISAIAH MOSLEY,
Person ID: 3322179, Defendant.
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ORDER FINDING DEFENDANT COMPETENT TO PROCEED

THIS MATTER came before the Court on the issue of the Defendant's competence to proceed to trial in accordance with the provisions of Florida Rule of Criminal Procedure 3.210(b), and section 916.115, Florida Statutes. On June 26, 2025, July 8, 2025, July 9, 2025, July 10, 2025, July 11, 2025, August 19, 2025, August 20, 2025, and August 21, 2025, the Court heard testimony and argument. Having considered the testimony, evidence, argument of the parties, the record,[1] and applicable law, the Court finds as follows:

RELEVANT PROCEDURAL HISTORY

On April 27, 2023, a grand jury charged the Defendant by indictment with two counts of murder in the first degree, a capital felony (counts one and two). On October 18, 2023, the Court issued an order finding the Defendant incompetent to proceed and committed him to the Department of Children and Families (DCF).[2] On December 14, 2023, he was transported to South Florida Evaluation and Treatment Center (SFETC), a State Mental Health Treatment Facility.

On January 12, 2024, Dr. Theresa Ascheman Jones, from SFETC, filed a sealed competency evaluation report, indicating the Defendant met the criteria for competency to proceed, and on February 1, 2024, SFTC transported him to the Pinellas County Jail (PCJ). On July 31, 2024, the Court issued an order finding the Defendant remained incompetent and

[1] This includes all prior competency evaluations and the 2024 Competency Evidentiary Hearing.
[2] Based on evaluations by Valerie R. McClain, Psy. D., Ryan C.W. Hall, M.D., Douglas R. Ramm, Ph.D., and Michael S. Maher, M.D.

recommitted him to DCF.[3] He was transported from the Pinellas County Jail to SFETC on December 12, 2024.

On January 10, 2025, Dr. Lana Tenaglia from SFETC filed a competency evaluation finding the Defendant incompetent to proceed, and on February 28, 2025, she filed a competency evaluation finding him competent. The Defendant was transported from SFETC to the Pinellas County Jail on March 6, 2025.

On March 5, 2025, the Court issued an order directing the examination of the Defendant for competence to proceed and appointing Dr. Ohiana Torrealday, Ph.D., and Dr. Michael G. Railey, Ph. D., as experts for the Court. On June 2, 2025, Dr. Railey filed his competency evaluation report. On June 10, 2025, the Defense deposed Dr. Tenaglia, which was transcribed; the transcript was filed on July 14, 2025. On June 2, 2025, Dr. Railey filed his competency evaluation report. On July 8, 2025, Dr. Ryan C.W. Hall and Dr. Valerie R. McClain filed evaluations. On July 9, 2025 Dr. Amy Fritz filed a speech-language evaluation and memo. On August 12, 2025, Dr. Torrealday filed her evaluation. On August 14, 2025, the Defense deposed Dr. Torrealday, which was transcribed. The transcript was filed on August 18, 2025.

On June 26, 2025, the Defense filed a Motion to Compel Disclosure of WHODAS (World Health Organization Disability Assessment Schedule) 2.0 Scoresheets, which the Court granted on the record on July 10, 2025. On July 7, 2025, the Defense filed a Motion to Exclude Testimony of Dr. Michael Railey, which the Court denied on the record on July 10, 2025. On July 8, 2025, the Defense filed a Motion to Bar the Testimony of Dr. Lana Tenaglia and a Motion to Exclude the Testimony of Dr. Lana Tenaglia, both of which the Court denied.

Dr. John Fabian testified on June 26, 2025; Dr. McClain testified on July 8 and 9, 2025, and August 20, 2025; Dr. Amy Fritz testified on July 9, 2025; Dr. Railey testified on July 10, 2025; Dr. Tenaglia testified on July 11, 2025, and Dr. Ryan Hall testified on July 23, 2025 and August 20, 2025. Dr. Torrealday testified on August 19, 2025, and Dr. Tyler Whitney testified on August 20, 2025. In addition, the Court heard testimony from Jessica Daws, Desiree Baker, Renee Dixon-Mosley, Bernard Currington, and Sarah Franklin.

[3] Based on evaluations and testimony of Valerie R. McClain, Psy. D., Ryan C.W. Hall, M.D., Precious Ogu, Ph. D., and Theresa Ascheman-Jones, Psy. D., as well as other evidence.

The parties presented oral closing argument on August 21, 2025. The Defendant was present for all hearings on this matter.[4]

FINDINGS OF MENTAL HEALTH EXPERTS

Six mental health professionals testified regarding the Defendant's competence to proceed to trial. Dr. Tenaglia, from the SFETC, found him competent to proceed on all factors under rule 2.211(a)(2) and that he was malingering. The three Defense psychological experts agreed that the Defendant was incompetent to proceed, and both court-appointed experts found him competent to proceed.

Valerie R. McClain, Psy. D.[5]

Dr. Valerie R. McClain, a psychologist with training in neuropsychology, testified on July 8, 9, and August 20, 2025, on behalf of the Defense. On July 8 and 9, she testified that she had seen the Defendant for an hour on March 28, 2025, and for twenty to twenty-five minutes on June 27, 2025 and that as of the June 27, 2025 visit, she had seen the Defendant six times over the last two years. She testified that in preparation for her report, she reviewed case related documents, the reports of other doctors, and hospital, medical, and school records.[6] Based on her analysis of the school records, Dr. McClain believed that despite the Defendant putting forth effort, he struggled with math, speech, and language. He had poor grades in high school and dropped out in the tenth grade at age seventeen with a second-grade reading level.

Dr. McClain reviewed Dr. Lana Tenaglia's report from SFETC, which indicated the Wechsler Adult Intelligence Scale, Fourth Edition (WAIS-IV) and Miller Forensic Assessment of Systems Test (M-FAST) were administered. She stated Dr. Tenaglia found the Defendant competent due to malingering. However, she assumed that Dr. Tenaglia's test results were inaccurate because Dr. Tenaglia administered the WAIS-IV,[7] an IQ test, before administering the test for malingering. In Dr. McClain's opinion, the malingering test should have been performed

[4] The Defendant watched from another courtroom, accompanied by his mitigation specialist the morning of July 9, 2025.
[5] Dr. McClain's full *curriculum vitae* was entered into evidence as Defense Exhibit 3. Her Report was entered into evidence as Defense Exhibit 9.
[6] Defense Exhibit 4 titled "Thomas Mosley's Adaptive Functioning Summary" includes a compilation of various school records prepared by the Defense, which was entered in to evidence over objection.
[7] Dr. Tenaglia believed her test results were not valid as well but due to the Defendant's poor effort.

before the IQ test. She also thought that the M-FAST was not an appropriate test for individuals with intellectual disability (ID) or a low IQ.[8]

On March 28, 2025, Dr. McClain met with the Defendant for an hour and administered the Rey 15-Item Memory Test (Rey 15). She explained the Rey 15 is a simple test and the Defendant scored fifteen out of fifteen, which is not suggestive of malingering. Her review of the school records as well as the Defendant's consistent flat affect, language and expressive speech issues, and lack of social understanding made her consider he was on the autism spectrum. She had the Defendant's parents complete the Gilliam Autism Rating Scale – Third Edition (GARS-3) and the Adaptive Behavior Assessment System, Third Edition (ABAS-3). She also spoke with his parents on July 1, 2025. Mrs. Mosley was involved in getting resources for the Defendant and participating in Individual Education Plans (IEPs). Both parents thought their son lacked comprehension and understanding of social interactions. Based on the tests and interviews, Dr. McClain suggested to Defense counsel that cognitive and linguistic testing was needed and counsel arranged. Based on that suggestion, Dr. Amy Fritz performed tests that included the Clinical Evaluation of Language Fundamentals (CELF-5), Peabody Picture Vocabulary Test (PPVT/Peabody), and Cognitive Linguistic Quick Test (CLQT). Dr. McClain reviewed the results of the tests administered by Dr. Fritz, which she opined showed the Defendant continues to have deficits for speech and language.

Dr. McClain again met with the Defendant on June 27, 2025. He was responsive to her questions and volunteered that he was not taking his psychiatric medications due to the side effects. She stated over the past two years she saw progress in treating the positive symptoms of schizophrenia, such as hallucinations, with medication and a structured environment, but felt his language, speech, and comprehension deficits were not improving. She diagnosed him with major depressive disorder with psychotic features, unspecified schizophrenia and other psychotic disorders, Autism Spectrum Disorder with intellectual language impairment, intellectual developmental disorder, generalized anxiety, and cannabis use disorder, which was in remission.

She explained that the DSM-5-TR criteria for intellectual disability are intellectual deficits measured by a standardized instrument that are at least two standard deviations below average of 100; adaptive deficits in social, conceptual, and practical areas; and occurrence within the developmental window from birth to age twenty-two. Dr. McClain did no IQ testing in advance

[8] Dr. McClain assumes throughout her testimony that the Defendant is ID therefore making any testing not done through the lens of ID, invalid.

of her initial report after the Defendant returned from his second evaluation at SFETC. She relied upon Dr. Fritz's Peabody score and Dr. Railey's testing,[9] which she felt was valid in comparison to Dr. Tenaglia's testing. Dr. McClain tested the Defendant for adaptive function; he scored in a low percentile and she found he had deficits in the social domain due to limited expressive and receptive skills based on observation, parental interview, and school records. As for age of onset, she found that the parents' awareness of specific deficits occurred when the Defendant started school.

Dr. McClain found the Defendant incompetent due to intellectual disability. Dr. McClain reviewed the Defendants deficits,[10] gleaned not only from the Defendant but from family members and school records, in light of domains set out in tables in the AAIDD manual and a chart from the DSM-5-TR.[11] She stated that the AAIDD indicates that looking at adaptive function in institutional settings like prisons and hospitals, which are structured and supervised, is not appropriate because they are not considered a community setting. She explained that self-reporting related to intellectual disability alone is disfavored due to the cloak of competency, which is when a person tries to appear like they are functioning normally and sometimes overcorrects and presents as understanding something they do not understand.

Dr. McClain next explained that autism is a neurodevelopmental disorder that begins and is typically diagnosed in childhood; higher-level autism spectrum diagnoses occur in adulthood when families notice something is not right. She stated that autism manifests itself in deficits in six areas: receptive repetitive behaviors, social interaction, social communication, cognitive style, and speech, and language. She noted that a person higher on the autism spectrum can still drive a car, get a job, and function in the community; autism is not equivalent to intellectual disability because very bright individuals could be on the spectrum. Dr. McClain considered the Defendant for autism based on the persistence of flat affect, low social communication, and observed deficits. She opined that the Defendant met the DSM-5-TR criteria for autism and comorbidity with the psychosis relative to schizophrenia.

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[9] Dr. Railey did not believe his IQ testing was a reflection of the Defendant's "true cognitive abilities." See generally pg. 69 line 11 through pg. 70 line 8 of Dr. Railey's testimony.

[10] Dr. McClain acknowledged that the Defendant's perceived deficits "could actually just be like a learning disability, speech and language problems..." See pg. 84 line 24 through pg. 85 line 2.

[11] The AAIDD (American Association on Intellectual and Developmental Disabilities) Manual, Twelfth Edition, was entered into evidence as Defense Exhibit 10 and the DSM-5-TR (Diagnostic and Statistical Manual of Mental Disorders) was entered as Defense Exhibit 11.

Dr. McClain testified that negative symptoms of schizophrenia, such as inattention to social environment, lack of motivation, lack of hygiene, and lack of self-care, could affect competency if the Defendant is not stabilized for his mental health issues. He could be impaired by being actively psychotic, which would interfere with his ability to confer with attorneys, respond to the State Attorneys, participate in trial, or even cause him to act out in court.

Dr. McClain was asked how, as a neuropsychologist, she would determine if someone was giving full effort. She explained that, in addition to behavioral comparisons based on collateral information, she would administer tests such as the Miller Forensic Assessment of Symptoms Test (M-FAST), Validity Indicator Profile (VIP), or the Rey 15-Item. She added that the specific test given should be based on the person's reading level and in consideration of intellectual impairment. She would not give the M-FAST or VIP to people who have cognitive impairment because the M-FAST involves compound questions and the VIP uses complex vocabulary. Instead, she tends to use embedded measures in the WAIS or the Rey 15-Item. She opined that depression and negative symptoms of schizophrenia could be mistaken for poor effort. She noted that the Defendant had been taking his medication until recently.

Dr. McClain questioned Dr. Tenaglia's competency evaluation from SFETC which found poor effort, malingering, and that the Defendant was competent to proceed. After reading progress notes from SFETC, she thought the Defendant did not understand what he was being taught in class about complex legal concepts, based not on a refusal to participate but based on his deficits. Dr. McClain did not administer the WAIS-IV upon the Defendant's return from SFETC because SFETC had already administered the same test and standard procedure indicated the test should only be given once every year. She also felt the Defendant was still exhibiting mental health symptoms and not sufficiently stabilized. Dr. McClain opined that Dr. Tenaglia's administration of malingering tests after administering the WAIS-IV was not standard protocol. However, she admitted that the manual of protocol calls for concurrent testing for IQ and malingering. Dr. McClain reviewed Dr. Railey's report, which assumes the Defendant was malingering, and opined that his data suggests low function, not malingering.[12]

Dr. McClain found the Defendant was aware of his charges and potential penalties, and understood the adversarial nature of the legal process. She thought that despite deficits, he could

[12] Dr. McClain's IQ testing performed in August 2025 indicated a significantly higher score than that of Dr. Railey's results.

manifest appropriate courtroom behavior; however, she found him unacceptable as to his capacity to disclose pertinent facts to his attorneys and his capacity to testify relevantly due to his limited intellect, autism, and his persistent psychotic symptoms. She found the Defendant incompetent to proceed but opined that he could become competent with a therapeutic environment that helped him with his intellectual deficits and developmental disability.

On cross-examination, after reviewing the school records in Defense Exhibit 4, Dr. McClain, acknowledged that the Defendant was in general education classes throughout school but with accommodations through an IEP designed to assist with speech and language tutoring. He also received intensive reading and language arts education within a general education classroom, taught by an Exceptional Student Education (ESE) certified teacher. No school records indicated autism spectrum disorder or intellectual disability, despite checkboxes provided for those deficits, including the form filled out by speech and language pathologist Jessica Daws.

The school records also indicated he had appropriate social interaction with his peers and teachers in class, had plans to become an audio engineer after graduating high school, and reportedly could perform household chores, attend recreational activities, and had obtained a driver's license. The records also showed he often skipped class, being absent 33 out of 128 days one year, and was seen wandered around the campus on the days he came to school. Dr. McClain acknowledged that the SFETC records indicated the Defendant was laughing with his peers when attending a talent show and only participated in competency training when there was a reward for participation. Dr. McClain confirmed that as of July 9, 2025, she had done no testing on the Defendant, except for the Rey 15, based on her belief that he was not stable on medications, and was relying solely on tests performed by others.

On August 20, 2025, Dr. McClain testified via Zoom by agreement of the parties. She stated that she waited until the Defendant was back on his medication before conducting the WAIS-5 and the Rey-15, both on July 28, 2025, her seventh time seeing the Defendant.[13] Dr. McClain explained that although it is not recommended to administer a different version of the same instrument within a year, she administered the WAIS-5 because she deemed invalid the WAIS-IV testing administered by Dr. Railey and Dr. Tenaglia. She did not believe the Defendant was exhibiting good effort on the WAIS-IV.

[13] A summary of the test results was entered into evidence as Defense Exhibit 40.

The Defendant scored fifteen out of fifteen on the Rey-15, indicating he was not malingering, and he had a WAIS-5 full-scale IQ score of 69, which Dr. McClain explained was in the second percentile, higher than prior IQ testing. Dr. McClain authored an amended report, which included the results from the WAIS-5.[14] She testified that the Defendant's effort was within the expected range, based on his intellectual disability. The results of the WAIS-5 and Rey 15 did not change her opinion as to the Defendant's overall competency, but strengthened her opinion as to potential restorability. She noted that when working with the Defendant during testing, she observed he was no longer responding to things that were not there;[15] he was still reporting that he was experiencing auditory and visual hallucinations.

Michael G. Railey, Sr., Ph.D.[16]

On July 10, 2025, the State called Dr. Michael G. Railey, who the Court appointed on March 5, 2025, to evaluate the Defendant for competency. In addition to his educational and professional experience, Dr. Railey testified to his experiences in the community. Among his accomplishments, he was a senior psychologist at the Florida Department of Corrections for fourteen years, which included time at the Northeast Florida State Hospital in Chattahoochee. He was on the faculty at Florida State University and an autism spectrum and disability examiner since 2008. He evaluated the Defendant for competency to proceed in light of possible intellectual disability factors and related cognitive issues.

Dr. Railey testified that he met with the Defendant on May 12, 2025, at the Pinellas County Jail. He did not review any reports prior to meeting with the Defendant because he wanted to make his own decision about the Defendant. Subsequent to meeting with the Defendant, he reviewed a plethora of information including school records from the third grade through high school,[17] all of the doctors' evaluations and reports, and Dr. Tenaglia's test results on the WAIS-IV.

Dr. Railey stated his evaluation began with conversation and socialization with the Defendant, asking him about his background, a typical day, and his social life to ease any tension.

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[14] Dr. McClain's amended report was entered into evidence as Defense Exhibit 41.
[15] In the approximately fourteen evaluations that have taken place and interactions with other professionals during the pendency of this case, Dr. McClain is the only person who claims to have seen the Defendant hallucinate or be distracted by internal stimuli.
[16] Dr. Railey's full *curriculum vitae* was entered into evidence as State's Exhibit 1 and 1A. His evaluation, filed June 2, 2025, was entered into evidence as State's Exhibit 2.
[17] Defense Exhibit 4.

The Defendant was able to carry on a conversation showing cognitive sophistication. He looked for signs of possible disabilities or learning disorders and administered the Mini Mental Status Examination – 2: Expanded Version (MMSE-2: EV), World Health Organization Disability Assessment System 2.0 (WHODAS 2.0), and WAIS-IV. Dr. Railey observed that during testing, the Defendant was more guarded than in the history and background part of the evaluation, often looking over to his attorney. The Defendant performed poorly on the MMSE-2: EV and WHODAS 2.0. However, Dr. Railey found that the results were not indicative of the Defendant's abilities. He indicated that only a person with an altered consciousness or a severe brain injury would get the drawing and simple story portions of the MMSE-2: EV wrong.

Dr. Railey performed the WAIS-IV. He was aware of the WAIS-5 but had not yet begun administering it and he was aware that the State hospital had recently administered the WAIS-IV. The Defendant's score on the WAIS-IV he administered was extremely low, which was in the same category of descriptor as the one Dr. Tenaglia administered. The Defendant would have performed extremely better the second time he took the test than he did the first time if there were a practice effect. He explained that in a forensic setting where malingering could be an issue, practice effects are not the concern. The Defendant got an IQ score of 55 on the WAIS-IV, which Dr. Railey felt was not indicative of the Defendant's abilities, based on his experience with the Defendant. He further explained that people with autism spectrum disorder do not understand the nuances of social communication and misinterpret social cues. He did not see that with the Defendant. The Defendant communicated coherent responses and was able to engage in culturally appropriate adult dialogue, confirming that his receptive and expressive language skills did not reflect a severe deficit. Dr. Railey did not see anything that signaled that the Defendant was anywhere on the autism spectrum. Nor did he see any evidence of psychosis or internal stimuli.

Dr. Railey testified that he assessed adaptive functioning through the WHODAS and through his own questioning of the Defendant. He also had Renee Dixon-Mosley, the Defendant's mother, fill out the WHODAS by proxy. He explained that the DSM-5 clearly states that you cannot diagnose intellectual disability with just an IQ score and in his clinical opinion, the Defendant's adaptive functioning was far better than his IQ score revealed. There was a significant difference between Dr. Railey's WHODAS assessment and the one done by Renee Dixon-Mosley. For example, one of the descriptors is mobility and Mrs. Mosley's scoring indicated the Defendant could not walk on his own, and rated him as severe, extreme, or cannot do on five or six questions.

Dr. Railey found that was not indicative of the Defendant's abilities and thought motivation might be a factor. He considered her responses as an outlier because they were inconsistent with all the other information.[18]

In reviewing the school records, Dr. Railey observed that there was a lot of variance in grades. He explained the someone who is intellectually disabled would have difficulty even passing physical education class and that was not the case as the Defendant had some grades that were above a C. If he had seen any indication of intellectual disability or autism, he would have performed the appropriate tests like the Gilliam Autism Rating Scale, Autism Diagnostic Observation Schedule and the MIGDAS. He looked to the Defendant's current presentation, not to school records, and did not think speech-language delays in school records was indicative of autism. In his opinion, under the DSM-5, the Defendant did not meet the criteria for intellectual disability or autism spectrum disorder. He thought the Defendant is willing to help himself and had excellent coping skills. He found the Defendant competent to proceed on all six criteria and opined that his ability to disclose pertinent facts to his attorneys and testify relevantly.

On cross-examination, Dr. Railey testified that he reviewed Dr. Friz's testing and it did not change his opinion. Dr. Railey did not find school records reflective of the Defendant's current level of functioning or indicative of autism. He repeated the WAIS-IV because he had suspicions, based on his experience, that the Defendant may have been overmedicated at the State hospital when he was tested. He explained that re-administration of the WAIS-IV during the same twelve-month period was indicated in cases of judicial necessity. If there were a significant difference between the score on the current test and the previous test, then it would have been his responsibility to find another test. He found no qualitative difference between the Defendant's scores, which were both within the same descriptor, extremely low.

Dr. Railey testified that he did not find the Defendant's incorrect report of the place he was born and raised, the year of his suicide attempt, overdrafts, or driving record, in isolation, indicated intellectual disability. He stated that the MMSE-2 EV is a screening test, not only for Alzheimer's and dementia but as a good indicator of some cognitive abilities. Dr. Railey found deliberate

[18] Page 10 of Dr. Railey's report states "His mother's assertions of extreme disability may reflect concern for her son's wellbeing or an attempt to safeguard him from legal repercussions..."

underperformance on the recall portion of the test based on conversations with the Defendant. He did not feel that the Defendant's mental health condition impacted his ability to adapt.[19]

Lana Tenaglia, Psy.D.

On July 11, 2025, the State called psychologist Lana Tenaglia from SFETC.[20] She testified that she has a doctorate in school psychology and a postdoctoral residency in forensic psychology. She trained at the Federal Bureau of Prisons evaluating inmates for competency to stand trial and performing criminal responsibility evaluation, before working at SFETC. She stated that she has conducted hundreds of evaluations. Dr. Tenaglia testified that the Defendant was admitted on December 12, 2024. On December 18, 2025, she had her first one-on-one assessment of the Defendant. She initially opined that he was incompetent to proceed but felt at times he was not putting forth full effort, becoming defiant when corrected on answers.

She next met him on January 2, 2025. He was cooperative and had no difficulty responding to questions about historical information or discussing his hallucinations. Before making her assessments, she reviewed arrest affidavits, evaluations completed before the Defendant's first commitment, evaluation completed during his prior admission, and all of the evaluations completed prior to his current admission. She also reviewed summaries of the testimony documented in the Commitment Order and his medical chart.

As of January 7, 2025, she diagnosed him with unspecified mood disorder, documented that he was reporting hallucinations, but noted he did not present with any other symptoms of psychosis. She believed he was putting forth poor effort but wanted more time to observe to and assess him. Her January 7, 2025 report included documentation of information she derived from her review of the admitting psychiatric clinician's notes, which also indicated an unspecified mood disorder diagnosis and a cannabis use disorder. Upon arrival at the facility, the Defendant was prescribed medication for psychosis, depression, anxiety, insomnia, and his thyroid. He did not appear to respond to any internal stimuli and was cooperative but he became guarded. When asked about his charges, the Defendant indicated he did not want to talk about it. Although reluctant to discuss the allegations, Dr. Tenaglia did not observe any symptoms that would prevent him from

[19] July 10, 2025 transcript, Vol. 2, pg. 248, lines 12-13.

[20] Dr. Tenaglia's competency report dated January 7, 2025, was entered into evidence as State Exhibit 4; her competency report dated February 28, 2025, was entered as State Exhibit 5, and her *curriculum vitae* was entered as State Exhibit 6.

being able to do so. In assessing his legal knowledge, Dr. Tenaglia was concerned about his effort level because he would become a little defiant and disagree with her about the legal education, which is not typical. The defendant repeated statements such as "I don't know a lot." She estimated his global intellectual functioning within the low to average range. She found his capacity to appreciate legal charges, appreciate possible penalties, appreciate the adversarial nature of the legal process unacceptable, his capacity to disclose pertinent information to his attorney questionable, and his capacity to manifest appropriate courtroom behavior and testify relevantly acceptable.

After the initial evaluation, Dr. Tenaglia continued to meet with the Defendant on a weekly basis before his final evaluation on February 25, 2025. During that time, she continued to review the Defendant's progress notes, notes from nurses and social workers. During his time at the SFETC, the notes consistently reflect the Defendant was medication compliant, sleeping well, calm and cooperative, socializing,[21] and eating his meals. The Defendant was observed by nursing staff caring for himself independently such as bathing, cleaning his room, doing his own laundry, and feeding himself. Additionally, there were no notes by any staff member observing the Defendant appear as if he is hallucinating or delusional.

During his time at the SFETC, the Defendant was prescribed medication for his thyroid condition in addition to mental health medication. The mental health medication was increased in some circumstances to maximum dosages to treat the Defendant's continued reports of ongoing symptoms. Dr. Tenaglia found it unusual that he did not report any improvement in his symptoms with the amount of medication he was being provided.

As it relates to his performance in competency restoration classes, the Defendant would attend class but would socialize with his peers, not participate unless called upon, and did not complete assignments. The Defendant told the rehabilitation specialist that he could not read,[22] although he would on occasion read out loud in class. When asked to answer questions in class, the Defendant routinely responded with "I don't know." Despite this, the Defendant was able to understand and comply with instructions on how to "level up." While at the SFETC, patients that exhibit positive behaviors, complete tasks, or go to class, among other things, can earn rewards or

[21] The defendant was noticeably more reserved around staff members than peers.
[22] See July 23, 2025 transcript, pg. 35, lines 4-8.

benefits for their efforts. The Defendant advocated for himself as to why he should be awarded such benefits.

Dr. Tenaglia believed the Defendant was stable enough for testing and although he would continue to report the same hallucination, did not exhibit any symptoms of psychosis. Therefore, on February, 18, 2025, Dr. Tenaglia administered the WAIS-IV. The Defendant's full-scale IQ was a 46. It is unlikely that someone with a true IQ score of 46 would be able to understand any legal concepts. She noted that prior competency evaluations mentioned his ability to answer questions about range of possible penalties for example. Dr. Tenaglia believed the low test score was a result of the Defendant's poor effort.

Dr. Tenaglia also administered the Validity Indicator Profile (VIP) and the M-FAST. The VIP is given to determine someone's level of effort. The Defendant's responses to the VIP were indicative of filling out the answers without looking at the test questions therefore indicating poor effort. She explained that the M-FAST is designed to provide information related to feigning psychiatric illnesses. The Defendant's score suggested that he was. Because the Defendant was not exhibiting any symptoms of ID or cognitive impairment or had a prior diagnosis for either, Dr. Tenaglia believed administering these tests was appropriate.

During her testing, Dr. Tenaglia found the Defendant had capacity in all six criteria for competency. In addition, he did not present with any symptoms that were impairing his ability to be competent. His self-reported depression and hallucinations did not interfere in his ability to attend class, socialize with peers, care for himself, sleeping and effect is appetite. As for his refusal to discuss the allegations, Dr. Tenaglia opined this was a choice, not a lack of ability to do so. Therefore, she found the Defendant competent to proceed and malingering.

On cross examination, Dr. Tenaglia testified to the SFETC's goal to have patients restored to competency within 90 days. The Defendant was a patient at this facility for 83 days. She is unaware of the average length of stay for all patients. Dr. Tenaglia attempted to obtain school records through a social worker but never received them. She did not reach out to Dr. McClain directly to obtain them. The school records may have been helpful but could also show a consistency in a lack of effort. The Defendant was not provided one-on-one competency training because that is saved for patients that have the presence of ID; because she believed he was feigning, one-on-one training was not ordered. The Defendant was able to accurately discuss his educational history, history of self-harm and hospitalization, and history of psychosis consistent

with Dr. McClain's report. The Defendant also asked a series of questions of Dr. Tenaglia during one of their meetings about whether her notes/report would be given to her lawyers and asked if she was working for his lawyers. Dr. Tenaglia answered his questions and the Defendant acknowledged he understood her answers.

Dr. Tenaglia administered the WAIS-IV because of the concerns of other evaluators for cognitive deficits. Otherwise, she would have administered malingering testing only. Further, she believed he would put forth poor effort whereby demonstrating the inconsistency between testing and overall functioning. Although the Defendant frequently answered questions in single words or simple phrases, his answers were relevant, not outside the scope of the question, organized, and made sense. Dr. Tenaglia reiterated she did not test for ASD because she observed no symptomology of such.

Ryan C. W. Hall, M.D., P.A.

On July 23, 2025, the Defense presented Dr. Ryan C.W. Hall, a medical doctor and psychiatrist, with published articles on psychopharmacology.[23] He testified he is board certified in general psychology and has sub-certification in forensics. He reviewed the Defendant's school records contained in Defense Exhibit 4, which he opined showed deficits starting early and continuing throughout his schooling. He reviewed video visitations between the Defendant at the jail and family members; he felt the conversations were rote and superficial. Dr. Hall also reviewed records from SFETC. He had been concerned during the prior competency proceedings that the Defendant's competency was affected by hypothyroidism and noted the SFETC records reflect they treated him with Synthroid. He noted SFETC adjusted the Defendant's antidepressant medications. SFETC also adjusted his antipsychotic medications, which were helpful for treating his positive schizophrenia symptoms like hallucinations and delusions but could also help with negative symptoms such as dull look in the eye, lack of smile or facial expression, lack of motivation, and lack of empathy. He noted that the Defendant was doing better with mood and psychotic symptoms. The Defendant seemed to be able to do well in the structured environment but had to be encouraged to participate.

[23] Dr. Hall's full curriculum vitae was entered into evidence as Defense Exhibit 33. His evaluation, filed July 8, 2025, was entered into evidence as Defense Exhibit 34.

Dr. Hall reviewed Dr. Tenaglia's report and noted that there was some question about whether the Defendant could read.[24] He opined that if there was a concern about reading level, there are tests that could be given, like the Woodcock-Johnson Inventory. He also thought it would have been appropriate for Dr. Tenaglia to have reached out to a family member regarding questions about intellectual disability or autism. He did not think the Defendant liked doing neuropsychologic assessments because they often take hours and he responded randomly.[25]

Dr. Hall also review records from the Pinellas County Jail and noted the Defendant was declining or missing some medications but he seemed relatively stable and better than he had been in the past. He reviewed the speech and language testing done by Dr. Amy Fritz and noted that she had concerns for autism. Dr. Hall had not considered autism and despite Dr. Fritz's findings would not change his diagnosis. He recalled that Dr. Fritz's report indicated language deficits, which was consistent with the educational records he had reviewed. Dr. Hall also reviewed Dr. Michael Railey's report, which related a very different history from the Defendant about his place of birth and education than the one Dr. Hall received.

The Court took notice of Dr. Hall's two prior reports, filed July 21, 2023 and June 13, 2024, and his previous testimony on June 20, 2024.

Dr. Hall saw the Defendant on April 11, 2025, after his return from SFETC. He met with him for two to two and a half hours and administered several screening tests, specifically, the Mini-Mental Status Exam (MMSE), which he had previously administered, and the Rey 15, a test of effort and malingering. The Defendant scored twelve out of fifteen on the Rey 15, which Dr. Hall considered adequate effort. The Defendant performed better on the MMSE than he had the first time Dr. Hall administered it but the Defendant still had trouble with math. The Defendant could not do the Serial Seven exam, which requires a person to count backward by sevens from one hundred. He could do the similar task of spelling the word "world" backwards, which requires some concentration and keeping sequences in your head. The Defendant did poorly on the clock drawing, putting the one at the top instead of the twelve.

Dr. Hall saw the Defendant again, briefly, on July 9, 2025. The Defendant's condition had not changed, he was not very communicative and did not want to talk or answer a lot of questions.

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[24] See Dr. Tenaglia's February 28, 2025 Report page 11: "Mr. Mosley had stated to his rehabilitation specialist that he was unable to read during one class and then later on in a class on another day, demonstrated his ability to read without difficulty." See also July 11, 2025 transcript, Vol I, pg. 58, lines 17-25.

[25] See July 23, 2025 transcript, pg. 36 lines 13-19; p. 43 lines 2-5; and pg. 67 lines 8-10 and lines 21-24.

He diagnosed the Defendant as psychotic not otherwise specified with a rule out schizophrenia versus major depressive disorder with psychotic features. He stated that he has always been concerned for intellectual deficiency based on some of the Defendant's responses, especially after a lot of his psychiatric symptoms and depressive symptoms improved after two stays at SFETC.

He explained that sometimes it is hard to assess cognitive deficits when someone is actively psychotic because the symptoms of psychosis, such as attention, concentration, odd beliefs, and the inability to engage in an evaluation *could* be to intellectual disability. The symptoms of intellectual disability usually appear either around the time of birth or in the infancy/toddler stage and depending on how severe the case, the earlier it is diagnosed. The DSM-5-TR requires IQ testing to diagnose intellectual disability, but IQ testing alone is not enough, you also need adaptive functioning limitations. An IQ between sixty-five and seventy-five, with a standard deviation of fifteen, may fall in the range of intellectual disability. Dr. Hall did not have confidence in the WAIS-IV IQ test done at SFETC because they scored him at forty-nine or forty-two, which he thought was way below the Defendant's actual score.[26] Dr. Railey's score of fifty-six was closer to the sixty range he believed the Defendant should score,[27] but without doing the test himself, he did not want to assign a number. He opined that you cannot, and he could not, diagnose intellectual disability without a valid IQ score.

Dr. Hall noticed deficits in the Defendant's adaptive functioning when reviewing the school records. It appeared that people tried to engage him or change teaching methods but he seemed to have difficulty no matter the approach. As for the age of onset, Dr. Hall opined that the Defendant's school records, going back to the second or third grade, showed that the Defendant met that criteria of intellectual disability. He was surprised the Defendant was not tested earlier for IQ.

On August 20, 2025, Dr. Hall testified again to mainly discuss the recent IQ testing performed by Dr. McClain. Since his last court appearance, Dr. Hall also spoke with Renee Mosley, the Defendant's mother. He learned that the Defendant was born with an extra finger on his hand that was removed. The Defendant's father was also born with the same genetic trait. Dr. Hall further heard Renee Mosley's impression of the Defendant's ability to carry on daily living activities without supervision and work history. Renee Mosley opined that his ability to do things

[26] Dr. Tenaglia and all other doctors agree this is not a true measure of the Defendant's actual ability.
[27] Dr. Railey did not believe his testing revealed a true IQ score due to the Defendant's poor effort.

unsupervised was poor. She believed his work as a carpenter was under the supervision of his father, therefore, not truly independent work. Overall, Dr. Hall did not change his ultimate opinion related to the Defendant's diagnosis and competency.[28]

Ohiana Torrealday, Ph.D. [29]

On August 19, 2025, the State called Dr. Torrealday, who was appointed by the Court on March 5, 2025, to evaluate the Defendant. Dr. Torrealday testified she has been a clinical and forensic psychologist since 2004 and is licensed in Florida and Texas. She has also completed evaluations in correctional institutions in Tennessee, Alabama, and Rhode Island. She has been court-appointed in the Sixth and Thirteenth Circuit Courts in Florida for the last seven years, and done approximately one hundred competency evaluations. Dr. Torrealday testified that of all the evaluations she has done during her career, the majority are mental health-driven but she has done a couple hundred with co-occurring intellectual disability and a couple dozen evaluations just looking at autism. She has also conducted Auditory Processing Disorder (APD) evaluations in cases where the possibility of intellectual disability or autism spectrum disorder has been raised, and then if the individual is so diagnosed, evaluating for competency.

Prior to evaluating the Defendant, Dr. Torrealdy requested and reviewed court documents, set forth in her report; test results and raw data from Dr. Railey, Dr. McClain, and SFETC; Dr. Railey's report; and jail mental health records. Thereafter, on May 8, 2025, she met with the Defendant, his counsel, and the State at the Pinellas County Jail, in a conference room across the hall from his housing unit. She stated that the Defendant presented as guarded and unwilling to participate in the evaluation; he was quiet and did not want to answer questions with the State Attorneys present, commenting to the effect that the prosecutors were trying to kill him. He walked out of the room and refused to cooperate. A compromise was reached where Dr. Torrealdy interviewed the Defendant for approximately an hour with a member of the Defense team present, which was video recorded; the Defendant was cooperative and answered questions after prosecutors left.

The Defendant reported that he always lived with his parents, never lived independently, was never married, and did not have any children; he had four siblings. He reported that he

[28] It is noteworthy that Dr. Hall does not discuss autism as a barrier to competency at any point in his testimony.
[29] Dr. Torrealday's *curriculum vitae* and Forensic Psychological Evaluation were entered into evidence as State's Exhibit 9.

repeated the third grade, denied any history of special education services while in school, The Defendant claimed he dropped out of Boca Ciega High School because he did not want to be there. Upon further questioning, he stated that he was pulled out of class for help in reading and math in the fourth and fifth grades. Dr. Torrealday confirmed from school records that the Defendant had an IEP for a reading disability and language but there was nothing in the school records to indicate he needed to be tested for autism or intellectual disability. The Defendant told her he interned in carpentry for two years, and then worked in waste management for a few months but did not elaborate.

The Defendant was able to identify two of the three mental health medications he was taking, trazadone and melatonin, which he stated was for anxiety and depression, as well as a thyroid medication. The Defendant's answers were brief but coherent and appropriate. His hygiene and grooming were appropriate, and the jail records confirmed that although the Defendant did not want to shower a couple of times, it was not a continuous issue. He did not require assistance in showering, getting dressed, or getting to meals. Although the Defendant's affect was flat when Dr. Torrealday met with him, during the second day, when she met with him for testing, the Defendant smiled and chuckled at activities occurring behind Dr. Torrealday that he could see in the day room. He did not ask many but did ask a few spontaneous questions of Dr. Torrealday.

The Defendant admitted he had been Baker-Acted and voluntarily hospitalized twice for suicidal ideation and attempts, once by trying to cut himself and once by overdose on medication. Other than this Court's order directing evaluation for intellectual disability and autism and Defense experts in this case, Dr. Torrealday did not recall any reference to intellectual disability or autism related to the Defendant. The Defendant endorsed hearing voices telling him to kill himself starting at age eighteen and continuing to the days of evaluation, and visual hallucination of seeing blood in his eyes but Dr. Torrealday did not observe him reacting to any internal stimuli. He also endorsed feeling anxiety and sadness on a regular basis because he was in jail.

On May 21, 2025, the second day of Dr. Torrealday's interview, they met in a meeting room within the Defendant's housing unit for about an hour for testing. Dr. Torrealday administered the Comprehensive Test of Nonverbal Intelligence (CTONI-2), an IQ test of intellectual functioning. She did not administer the WAIS because the WAIS had been administered not long before at SFETC. She felt it was appropriate to choose a different instrument

based on the practice effect. She explained that the CTONI-2 is nonverbal and does not require reading or writing and is normed for ages six to 99. The Defendant performed poorly on the test with a pictorial scale of 55, geometric scale of 61, and full scale of 54, comparable to a WAIS score of 54, which equated to intellectual disability. This is also indicative of a person who cannot drive, would need assistance to do the daily tasks like bathing, and could not live independently. She stated that she had concerns that the Defendant was not putting forth effort. Dr. Torrealday administered the inventory of legal knowledge (ILK) and the dot-counting tests for effort, feigning, or malingering. She stated the ILK was normed for a fifth-grade reading level and above, and the Defendant scored relatively low, meaning he would have gotten more questions correct if he randomly guessed answers, which raised concerns for effort. The dot-counting test is designed to assess effort and is fairly simplistic, requiring the participant to literally count dots on a particular card, with the maximum of 30 dots on a card. Dr. Torrealday scored the test for those who have a reported head injury because the Defendant reported running into a pole in the seventh grade and being in a car accident; she also scored them against those identified with a learning disability and those who have been diagnosed with schizophrenia. The Defendant scored within the normal rage in comparison to the head injury and schizophrenia groups, and slightly above the norm in comparison to those with a learning disability, again raising a question of effort. Dr. Torrealday administered the Mini Mental Status Exam (MMSE) which screens for mild cognitive impairment and assesses recall, orientation, attention, calculation, and naming. The test requires a participant to recall three words later in the interview and whether the participant is oriented to time and place. The Defendant did fine on the recall of the three words, correctly identified the month and year but not the exact date, and correctly identified the State, County, City, building, and floor. The MMSE also requires the participant to count backwards by sevens; Dr. Torrealday noted that most people struggle with this and the Defendant instead counted backwards by tens. When she asked him to count backwards by tens, he could only go to 70, then went to 50. He did not give the correct answer regarding change from a dollar or complete simple addition. He scored correctly on the naming portion of the test, swapped one word on the repetition recall portion, correctly identified where he lives, but copied geometric shapes distortedly.[30]

Dr. Torrealday reviewed the three WAIS IQ tests administered to the Defendant within a five-month period; he scored a 46 on February 18, scored a 55 on May 12, and scored a 69 on July

[30] The Defendant's responses on the MMSE-2 were entered into evidence as State Exhibits 10-A and 10-B.

29, a 23-point difference, which she found to be a bigger jump than typical. She discounted the second score because the WAIS is not typically re-administered in such a short period of time. She did not discount the third score because it was a newer version of the WAIS that has some different subscales. She questioned whether the WAIS scores were an accurate representation given the effort concerns raised and the fact that the Defendant, although identified as having language impairment in school, had never been identified as having intellectually disability. If a student had a score of 46, which she testified was a moderate, very low IQ, they would be more easily identified by schools as having intellectual disability.

Dr. Torrealday diagnosed the Defendant with unspecified depressive disorder unspecified schizophrenia spectrum, another psychotic disorder, the specific learning disability by history, suspected malingering based on suspected effort, and cannabis disorder in sustained remission due to incarceration. She reported that the Defendant's thoughts were organized, goal-directed, and relevant; she did not see evidence of a psychotic thought process or find significant cognitive impairment or acute symptoms of mental illness that would negatively affect his capacity to answer questions.

Dr. Torrealday found the Defendant appreciated the charges he was facing. Despite his claim that he has never known any details about the charges, he stated that he would talk about it when he was ready. She stated that the Defendant understood the possible punishments; he understood the adversarial nature of the case and the roles of key court personnel; that although he was quiet and guarded, he was capable of disclosing pertinent facts; he had the basic capability to answer questions coherently and relevantly; and could manifest appropriate courtroom behavior.

On cross-examination, Dr. Torrealday stated that there is an overlap in diagnoses or co-morbidity with schizophrenia, intellectual disability, and autism spectrum disorder. She acknowledged a difference between a deficit in knowledge of information and comprehension. The Defendant provided what appeared to be incorrect information about which grades he repeated, when he dropped out of high school, and the educational assistance he received. The school records indicated he was still at a kindergarten reading level in March, 2020, just before the schools shutting down due to COVID.

The Defendant could only recall two of the five medications he was receiving at the jail, melatonin for sleep and trazodone as an antidepressant. He did not recall the levothyroxine

sodium[31] for thyroid, sertraline, an antidepressant, or fluphenazine, an antipsychotic. Dr. Torrealday was asked to explain the positive and negative symptoms of schizophrenia. She explained that the overt symptoms, like responding to internal stimuli or visual hallucination are positive symptoms and blunted affect, poverty of thought, and not talking much are negative symptoms, which can impact a person's testing on psychological and intellectual instruments.

The Defendant consistently scored as intellectually disabled on every test administered over the course of the past year. The DSM-5 indicates three criteria needed to be met for a diagnosis of intellectual disability: deficits in intellectual functioning measured by an IQ score two stand deviations below the mean, adaptive deficits, and onset before age 18. Dr. Torrealday stated that if the testing is valid, the Defendant would meet the definition of intellectual disability but she suspected that his score on the CTONI was not valid based on suspect effort.[32] She did not do any formalized testing for autism because she did not believe it was necessary based on prior testing and a review of available records. Further, she suspected that what *could* be seen as a potential indicator of autism was negative symptoms of mental illness.[33]

Tyler Tippets Whitney, Psy.D.[34]

On August 20, 2025, the Defense called Dr. Whitney, a licensed clinical psychologist in Georgia, Utah, and Arizona, and a specialist in clinical, developmental, and forensic psychology. He has subspecialties in those involved in the legal system, have neurodevelopmental disabilities, and autism spectrum disorders (ASD). He reviewed all the reports and test results of the experts related to the current competency proceeding but did not view the video visitations from the jail. Dr. Whitney met with the Defendant at the Pinellas County Jail on July 29, 2025, for three hours. He first conversed with the Defendant about his interests and viewed the Defendant's YouTube rap videos with him. The Defendant provided Dr. Whitney with instructions on how to access his You Tube page and wrote down his rap name "Little T Smoke"; all of which proved to be accurate

[31] Synthroid is a trade name for levothyroxine.

[32] Throughout Dr. Torrealday's report and testimony, she repeatedly references the Defendant's lack of effort. For example, Dr. Torrealday noted in her report, "Mr. Mosley's attention and effort was questionable as he was observed on more than one occasion, looking past my shoulder to the day room and smiling and laughing at inmates who were talking." State's Exhibit 9, pg. 4.

[33] "I conduct forensic evaluations for the Agency for Persons with Disabilities in regard to intellectual functioning, Autism Spectrum Disorder, competency to proceed and involuntary commitment, as well as determination of intellectual disability and involuntary admission to residential services. I also conduct intake eligibility evaluations for the agency." State's Exhibit 9, pg 1.

[34] Dr. Whitney's *curriculum vitae* was entered into evidence as Defense Exhibit 37, his forensic experience log was entered as Exhibit 38, and his report on Thomas Mosley was entered as Exhibit 39.

information. He then administered portions of the Autism Diagnostic Observation Schedule, Second Edition (ADOS), which Dr. Whitney indicated was the gold standard for interviewing those with suspected autism spectrum disorders, and interviewed the Defendant's mother to get collateral information. He did no effort testing of the Defendant. The Defendant scored in the autism spectrum range on the ADOS and he observed "hyperkinetic movement"[35] in the Defendant, which indicated to him that the Defendant was experiencing emotions that were coming out in a physiological manner. The Defendant also exhibited other behaviors that confirmed Dr. Whitney's ASD diagnosis, including the Defendant's expressing that he likes to present himself as "chill" or "laid-back" but Dr. Whitney could tell he was actually very anxious and nervous. He also opined that the Defendant's general responses to specific questions, his inability to relate to his peers or people who were trying to teach him, and inability to ask for help were indicative of ASD.

Dr. Whitney diagnosed the Defendant with autism spectrum disorder, level two support for social communication, level one support for restricted interest and repetitive patterns of behavior, with language impairment.[36] He also diagnosed him with mild intellectual impairment; schizoaffective disorder; major depressive disorder, recurrent, moderate in intensity, without psychosis; and atypical sensory profile. He opined that the Defendant is a black-and-white thinker, meaning he understands the goal but not the process, and his lower cognitive functioning level results in frustration and stress. On the six criteria for competency, Dr. Whitney opined that the Defendant appreciates the range and nature of the penalties in a general sense but not the process; he is not able to adequately communicate with his counsel; and does not have the capacity to appreciate the adversarial nature of the legal process or the roles of the parties; and could not testify relevantly. Dr. Whitney gave an example of how the Defendant did not understand the adversarial nature of the proceedings or the roles of the parties. When he and counsel met with the Defendant before court on August 20, the Defendant asked counsel why she gave the State the rap videos. Counsel pointed out to him that the State found and introduced the rap videos but the Defendant insisted that his counsel gave the rap videos to the State. Dr. Whitney stated that it would not be a good idea for the Defendant to testify because he did not understand the adversarial nature of the

[35] During multiple days of many hours of competency hearings the Court has never observed this in person or in his You Tube videos or video visitation nor has any other doctor or other professional.

[36] Dr. Whitney testified that level one refers to the mildest form of ASD, or highest functioning level, and level two is moderate impairment.

proceedings and could not be expected to answer questions, which would be confusing to him. He opined that the Defendant was not competent to proceed on five of the six criteria due to the complex nature of the case and his ASD and schizoaffective disorder.

John Matthew Fabian, Psy. D., J.D., ABPP

On June 26, 2025, the Defense called Dr. Fabian, a clinical and forensic neuropsychologist and board-certified forensic and clinical psychologist.[37] Dr. Fabian did not examine the Defendant. He testified generally regarding clinical and forensic assessment of intellectual disability in the context of competency to stand trial and how individuals with ID struggle in court cases.[38] He defined intellectual disability as a neuro-developmental disorder and a mental condition where the individual has cognitive ability, intellectual functioning, and co-occurring adaptive functioning deficits. He identified the three prongs of intellectual disability as significant substantial limitations in intellectual functioning, substantial limitations in adaptive functioning, and onset during the developmental period before age twenty-two. He stated that intellectual disability levels can range from mild to profound and those with intellectual disability typically have significant impairments in cognitive ability and skills and emotional and social functioning. Dr. Fabian testified that often those with intellectual disability often pretend they understand information when they do not, which he referred to as the "Cloak of Competency."

OTHER RELEVANT TESTIMONY AND EVIDENCE

Amy Fritz, Ed. D.

On July 9, 2025, the Defense called Dr. Amy Fritz, a speech-language pathologist.[39] She testified that as a speech-language pathologist, she can diagnose speech and language conditions but not autism spectrum disorder or intellectual disability. She observed that often communication is the first symptom people notice in those with autism spectrum disorder or intellectual disability. Dr. Fritz stated that the Defense contacted her to evaluate the Defendant. She reviewed the Defendant's records before meeting with the Defendant and produced both a memorandum and a

[37] Dr. Fabian's full *curriculum vitae* was entered into evidence as Defense Exhibit 1 and was also filed on May 21, 2025.
[38] Dr. Fabian's PowerPoint presentation on this subject was entered into evidence as Defense Exhibit 2.
[39] Dr. Fritz's curriculum Vitae was entered into Evidence as Defense Exhibit 12. speech language evaluation and summary were filed on July 9, 2025, and entered into evidence as Defense Exhibit 13.

Speech-Language Evaluation.[40] The records Dr. Fritz reviewed indicated speech and language impairments starting at age six; he was diagnosed with mixed expressive receptive language impairment and later diagnosed with specific learning disabilities.[41] She then administered several instruments for direct evaluation over the course of more than seven hours over the course of two days to prevent fatiguing. The tests included the Peabody Picture Vocabulary Test (PPVT), Cognitive Linguistic Quick Test (CLQT), the Social Responsiveness Scale II Edition (SRS-2), the Clinical Evaluation of Language (CELF-5), and the Pragmatic Profile of Everyday Communication in Adults. Dr. Fritz stated that the Defendant was giving good effort until about three-fourths of the way through the second day when he expressed that he was done.

The Defendant scored 59, three standard deviations below normal on the PPVT, meaning almost everyone would perform better than he did, with an age equivalency of eight years, two months. Dr. Fritz found the Defendant's score on the CLQT showed overall cognitive impairment in the areas of attention, memory, executive functioning, language, and visuospatial skills. Based on the results of the CLQT, Dr. Fritz made accommodations including speaking slower, using words that were not as complex, "chunking" verbal communications, and having the Defendant repeat directions to assure he understood. Dr. Fritz next administered the SRS-2 to both the Defendant and his mother, Renee Dixon-Mosley. She stated the SRS-2 correlates with the ADOS, the gold standard for autism assessment. It evaluates social awareness, social thinking, social cognitive skills, and the ability and motivation to communicate socially. It also tests restrictive interests and repetitive behavior. The Defendant's overall self-score was 64, mildly impaired and his mother's score of 81 was indicative of severe impairment. Dr. Fritz administered the CELF-5 to assess communication difficulties and strengths but could not use some sub-scores because the Defendant was beyond the age range of nine through twenty-one. She believed the Defendant was giving his best effort on the nine sub-tests of the CELF-5 but he scored very poorly. The Defendant did not complete the Pragmatic Profile but Dr. Fritz used her clinical judgment to score

[40] Dr. Fritz's speech language evaluation and memorandum were filed on July 9, 2025, and entered into evidence as Defense Exhibits 8 and 13.

[41] Dr. Fritz reviewed a language evaluation report by Pinellas County Schools, which included results from a Clinical Evaluation of Language Fundamentals (CELF-4), which was entered into evidence as Defense Exhibit 14, and Jessica Daw's speech-language evaluation, which was entered into evidence as Defense Exhibit 15. The Wellpath Recovery Solutions documents are encompassed in Defense Exhibit 5 (SFETC records) and the specific notes Dr. Fritz referred to in her testimony were entered as Defense Exhibit 16.

the Defendant at a level of less than three years of age, indicating very profoundly impaired expressive, receptive, and social communication skills.

Dr. Fritz diagnosed the Defendant with profound and mixed receptive expressive language disorder, secondary to a probable diagnosis of intellectual disability. She also diagnosed him with profound social pragmatic communication disorder and believed he also has autism spectrum disorder. She opined the Defendant would have difficulty communicating with his attorneys and understanding and participating in legal proceedings.

Sara Franklin

On July 11, 2025, the Defense called Sara Franklin, who was a teacher at Lakewood Elementary School and recognized the Defendant as a former student. She stated that the Defendant received special education services and she recalled that it was difficult to know if he had a full understanding of the content they worked on or if he was really giving his full effort. If he became frustrated with his assignments, he would shut down and not want to continue with the activity. He required visual supports, spelling, writing, and math, and was tested in smaller groups instead of a whole classroom. She recalled that the Defendant spoke quietly or mumbled and it was difficult to understand whether he was correctly enunciating words. He had a very quiet or less engaged affect with infrequent eye contact and lack of engagement unless prompted. She stated that the Defendant was provided with accommodations for learning disabilities and autism spectrum disorder or intellectual disability were not a focus, but, in hindsight, she opined that they could have considered autism spectrum disorder or intellectual disability.

Ms. Franklin testified the Defendant was in a full-time general education setting and received support within the classroom with a few other peers three times a week on remedial topics. An intellectual disability student would require intensive testing in order to be moved to a smaller classroom and she had concerns whether the Defendant did not have the ability to comprehend or whether he was not putting forth effort. Autism spectrum disorder and intellectual disability were never brought up in any of the meetings to discuss the Defendant's specialized education plan. He tried to socialize with his peers and did not like to stand out.

Jessica Daw

On July 10, 2025, the Defense called Jessica Daw. She testified that she was a speech language pathologist and started her career with Pinellas County Schools, where she worked with students in the special education program who had been diagnosed with speech and language

disabilities. Near the beginning of her career, she worked at Lakewood Elementary where she taught the Defendant in third and fourth grades.[42] The Defendant had language therapy for 30 minutes twice a week. She observed that the Defendant was quiet, spoke in simple sentences, and had a flat affect but was respectful. She stated that he was a follower of one student but she did not see him interact or initiate social conversations with any other students. Ms. Daw felt that the Defendant always tried hard. She administered the TOLD (Test of Language Development Intermediate, 4th Edition) and the results indicated that the Defendant had average to very poor language skills. She opined that the school was not a good school because a lot of the students were below expectations in reading and math and the teachers had a high turnover rates. Ms. Daw testified that she tried to refer students with suspected intellectual disability or autism but was told that the school was "upside down," meaning it had a higher percentage of special education students; only ten percent of the students were meeting expectations. She stated the school district was concerned with not labeling too many students and she was discouraged from investigating cognitive impairment.

Desiree Baker

On July 11, 2025, the Defense called Desiree Baker, a forensic specialist at the Suncoast Center for Mental Health. She testified that while a person is admitted at the state hospital, she is required to see them in person every three months and meet with a member of the hospital staff to get an update from their records. She is supposed to meet with the person at the Pinellas County Jail within three days after their return from the hospital, and then at least monthly until there is a finding by the court on competency.[43] On multiple occasions, she explained to the Defendant her role and responsibilities as an advocate. Her first visit with the Defendant was on February 12, 2025 at SFETC. Hospital staff reported that the Defendant's attendance in classes was inconsistent and he was putting forth poor effort.

Ms. Baker visited the Defendant at the jail via video on a number of occasions. He reported visual and auditory hallucination, had trouble remembering all of his medications, and had a flat affect. On March 10, 2025, the Defendant became agitated during their visit; he rolled his eyes when she asked him questions but was compliant. On March 24, 2025, he appeared slow to respond

[42] Ms. Daw's Language Reevaluation Report for the Defendant in the fourth grade, dated May 29, 2013, was entered as Defense Exhibit 15.

[43] Ms. Baker's progress notes, which are submitted through the Central Florida Behavioral Health Network (CFBHN) were entered into evidence as Defense Exhibit 25.

to questions. On April 7, 2025, she asked him if he had any questions for her and he asked where she lived, where she was from, and her last name, which she found was inappropriate. After she informed him that the questions were inappropriate, he ended the visit. On the May 21, 2025 visit, she greeted him and he just stared at her, then he became agitated, rolling his eyes and inhaling and exhaling heavily before answering questions. The Defendant stated he did not want her help because she could not do anything for him; she explained to him what other similarly situated people talk about but he hung up the phone and walked out of the visitation. She attempted to visit with him on June 9, 2025, but after he checked to see who was on the video, he left the visiting room; he did the same on June 16 and June 20, 2025. On cross-examination, Ms. Baker did not dispute that on May 21, the Defendant asked her if she had to come visit him, because he did not want to talk to her, not that he asked why she was there.

Renee Dixon-Mosley

On August 12, 2025, the Defense called Renee Dixon-Mosley, the Defendant's mother, a customer service representative for the Veterans Administration. She testified that she has been married to David Mosley, the Defendant's father, for 29 years and the Defendant has lived with them at the same address in St. Petersburg, Florida for his entire life. The Defendant has two step-brothers and two siblings.

Mrs. Mosley stated that she attended parent/teacher conferences and was involved in the Defendant's schooling. The Defendant attended three elementary schools; she took him out of the first school, Perkins Elementary, in the third grade because he was hanging out with older kids and exhibiting behavior issues and he briefly attended Melrose Elementary, which she felt was not a good fit, before attending Lakewood Elementary, where he did better at first. She stated that the Defendant had an IEP (Individual Education Plan) starting at Perkins Elementary through John Hopkins Middle School; he repeated third grade and he struggled with reading, writing, and language. School reports reflect that she reported no concerns at home regarding the Defendant's language skills.

Mrs. Mosley testified that she took him to the Silvan Learning and tried to help him on her own. The Defendant attended Boca Ciega High School where he repeated the ninth grade. Mrs.

Mosley decided to homeschool[44] the Defendant at ages 16 through 17 because he was exhibiting behavioral issues, like checking for key fobs in cars with other students. In addition, she took him to Tomlinson Adult Learning Center but it did not go well; the teacher told her it was a waste of time to take the Defendant to the Center because he was always on his phone. The Defendant quit school at age 18 between the 9th and 10th grades. Mrs. Mosley stated that the Defendant did not have any friends and he let people use him and she did not think he knew he was being used. He had one friend at Perkins Elementary but generally would not engage with others.

Mrs. Mosley testified that at home, the Defendant was able to understand her non-verbal commands. He had chores like taking out the trash and helping his father with yardwork but he had to be reminded repeatedly. She thought that he was a good worker when he worked with his father but she did not think he could work independently. She stated that when the Defendant left high school, he had no skills to live on his own because he had no job, could not shop, and could not do laundry. However, she stated that he worked seasonally or in temporary positions as a bathroom attendant and a garbage helper but had trouble getting along with others. He worked for one night in a packing job but left because he had anxiety working with other people. The Defendant decided he wanted to drive trucks for a living so went to PTEC (Pinellas Technical College) assuming they would just send him out in a truck but when he found he would have to fill out an application he did not apply.

Mrs. Mosley testified that at age 15-16 the Defendant got his learners permit; he had to take the written test over and over but eventually he passed. He never got his driver's license before his arrest. Mrs. Mosley did not like the way he drove because he had a little trouble following the rules of the road. The Defendant did not maintain the car on his own. His father had to check the oil and gas and help him with maintenance. He would also consistently park in his mother's parking spot, despite being told not to.

Mrs. Mosley stated she gave the Defendant money and a shopping list. He called her from the store several times and still came back with the wrong items. She stated he could not cook a full-course meal but was able to make scrambled eggs, noodles in the microwave, and hot dogs.

[44] What Mrs. Mosley termed "homeschool" sounded consistent with virtual/tele-school as Mrs. Mosley worked outside of the home and therefore was not present during the day to ensure the defendant was engaging in class and/or completing assignments.

The Defendant was capable of doing laundry but he threw all of the clothes in one load and did not separate. Mrs. Mosley said the Defendant's hygiene was "musky," often forgetting to apply deodorant, a condition that started as a pre-teen, lasted through high school, and did not get better until he was 18.

Mrs. Mosley stated that the Defendant overreacted when he did not get what he wanted and was obsessed with video games, football, and his scooter. She testified that he was not good at managing money and spent it all on rap videos, food, and shoes.

Mrs. Mosley stated that she had concerns about mental illness when the Defendant was in middle school so she took him to John Hopkins All Children's Hospital. They referred him to a psychiatrist who diagnosed the Defendant with depression and anxiety and prescribed medication. The Defendant was good about taking the medications at first. At age 16-17, the Defendant slit his wrists in a suicide attempt. She took him to John Hopkins All Children's Hospital where he was Baker Acted and sent to a facility for two weeks. His second suicide attempt was at age 18. He tried to overdose on 20 pills of his mental health medications, probably Prozac. The Defendant's father called 211 and the Defendant was Baker Acted. She has given the Defendant a bible and tried to teach him the twenty-third Psalm, but he did not understand the meaning and she had to explain it to him.

Mrs. Mosley acknowledged actively participating in the Defendant's IEP meetings. At no time did she express a concern for language issues, ID or ASD. She was aware of behavior issues such as rummaging through cars in the school parking lot instead of going to class. During video visits, the Defendant would discuss court dates with her, expressed an interest in the remodeling of their family home and hearing about other family members. He expressed an understanding how the commissary works how to send and receive packages at the jail and when he was allowed to use the phone at the jail and how it was different from SFETC.

Approximately three weeks prior to the Defendant's arrest, he moved in with Pashun Jeffery, a listed victim in this case. Specifically, he brought a TV and some other items to her apartment.

Bernard Currington

On August 12, 2025, the Defense called the Defendant's half-brother Bernard Currington. His is a college graduate and works for Veteran's Affairs as a hearing officer. He testified that the Defendant is the youngest sibling and they lived in the same house for at least 14 years. Mr.

Currington, who is approximately 11 years older than the Defendant, moved out of the family home when the Defendant was 14 or 15 years old. He helped the Defendant with his homework when the Defendant was in elementary school and the Defendant struggled with focus. He did not observe their mother read to the Defendant and he did not play board games or card games with his brother. In his middle school years, the Defendant was not social and he had depressed emotions. The Defendant's hygiene was not good; he did not wear deodorant or wash his clothes but this did not make him different from other young adults his age. The Defendant did not work independently and required a lot of reminders to do household chores. The Defendant would get in trouble at school and did not understand how his behavior was causing him to get detention. Mr. Currington did not think the Defendant was capable of living independently because he needed guidance and support and did not know how to grow and be a better person. He stated that during visits at the jail, the Defendant had depressed or little emotion, with poor eye contact, and was not talkative. This description was not consistent with the video of the visit on March 30, 2025, which shows them laughing about Mr. Currington's haircut and discussing various topics including the Defendant playing cards at the jail, the NFL draft, and television shows they watched.

Joel Johnson

On July 10, 2025, Joel Johnson, a registered nurse with the Pinellas County Jail for 18 years and works at the Pinellas County Jail, testified the Defendant is prescribed Fluphenazine, an antipsychotic; Trazodone, an antidepressant; Zoloft, another antidepressant; melatonin, to help with sleep; and levothyroxine for a thyroid disorder. He reported that the Defendant has consistently taken his thyroid medication and Zoloft, which are given in the morning but has refused the evening medication of Fluphenazine, Trazodone, and melatonin 12 times in June and, as of July 8, four times in July.[45] He reviewed the Defendant's incident reports at the jail but did not see any negative behavioral issues. The Defendant did not receive his medication the morning of July 8, 2025, because he was out of the jail to attend the hearing in this case.

Corporal Kaplan

On July 1, 2025, the State called Corporal Kaplan, who testified regarding visitation at the Pinellas County Jail. He stated that all visits with inmates are by video either from home or the visitation center outside the jail. Inmates visit from a specific spot in the jail and are allowed three visits per week. All visits are recorded and monitored and saved permanently through software.

[45] The Defendant's Pinellas County Jail medical records were entered into evidence as Defense Exhibit 17.

He testified that he located the Defendant's video visits from March 30, 2025, April 19, 2025, May 25, 2025, May 21, 2025, June 9, 2025, and June 21, 2025, a DVD of which was entered into evidence as State's Exhibit 3.

Detective Brian Bilbrey,

On August 19, 2025, the State called Detective Brian Bilbrey, lead investigator for the double homicide. He testified that he saw the Defendant twice: once at hospital after surgery and once at the jail for the buccal swab. He identified the Defendant in the courtroom. He testified that he viewed YouTube rap videos and recognized the Defendant as a participant.[46] He had no knowledge of how or when the videos were originally produced.

Rap Videos

The Court reviewed rap videos entered by the State. The videos show a smiling Defendant participating with his peer group rapping. In one video, he is driving a vehicle and handling a firearm. The Court is able to observe the Defendant away from home, in some circumstances after dark, functioning independently. The Court does not observe anything in these videos that appear symptomatic of ASD or needing assistance with independent living.

Video Visitations

The Court reviewed video visitations between the Defendant, while he is in the Pinellas County Jail, with various family members, including his mother and his brother.[47] The Defendant's mother participated in the video visits from their house. The Defendant appears bored but asks appropriate questions about modifications being made to the house and how various people are doing. He does not appear enthusiastic but he is engaged in the conversation. The video visits with his brother are from the visitation station outside the jail. The Defendant is more engaged with his brother, teasing him about his haircut and discussing football and television.

DETERMINATION OF COMPETENCY

LEGAL CONSIDERATIONS

"It is well-settled that a criminal prosecution may not move forward at any material stage of a criminal proceeding against a defendant who is incompetent to proceed." McCray v. State, 71 So. 3d 848, 862 (Fla. 2011) (quoting Caraballo v. State, 39 So. 3d 1234, 1252 (Fla. 2010)); see Fla. R.Crim. P. 3.210(a). In determining whether a defendant is competent to proceed, the trial

[46] A flash drive of the rap videos was entered into evidence as State's Exhibit 15.
[47] A DVD of six jail video visitation was entered into evidence as State's Exhibit 3.

court must decide whether the defendant "has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding – and whether he has a rational as well as a factual understanding of the proceedings against him." Hardy v. State, 716 So. 2d 761, 763-64 (Fla. 1998) (quoting Dusky v. United States, 362 U.S. 402 (1960)). Whether a defendant has the necessary rational understanding turns on whether his "mental condition precludes him from perceiving accurately, interpreting, and/ or responding appropriately to the world around him." Edwards v. State, 88 So. 3d 368, 371 (Fla. 5th DCA 2012) (noting that "a defendant may be deemed incompetent, despite an intellectual understanding of the charges against him, if his impaired sense of reality undermines his judgment and prevents him from making rational decisions regarding his defense.") (quoting Lafferty v. Cook, 949 F. 2d 1546, 1551 (10th Cir. 1991)).

Section 916.12, Florida Statutes, and Florida Rule of Criminal Procedure 3.211 each set forth the Dusky criteria as a list of factors to be considered by the court. These factors include the defendant's capacity to appreciate the charges or allegations, his capacity to appreciate the range and nature of possible penalties, his ability to understand the adversarial nature of the proceedings, his ability to disclose important and relevant facts to counsel, his ability to manifest appropriate courtroom behavior, and his ability to testify relevantly on his own behalf. See Fla. Stat. § 916.12(3)(a)-(f); see also Fla. R. Crim. P. 3.211(a)(2)(A)(i)-(vi).

The trial court must consider "all relevant evidence" presented in deciding whether the defendant is competent to proceed. See Castro v. State, 744 So. 2d 986 (Fla. 1998). In making its decision, the court may rely on expert testimony, lay testimony, and the court's own observations. The reports and related testimony of experts are "merely advisory to the [trial court], which itself retains the responsibility of the decision." Hunter v. State, 660 So. 2d 244, 247 (Fla. 1995) (quoting Muhammad v. State, 494 So. 2d 969, 973 (Fla. 1986)). "It is incumbent upon the court to consider all evidence relative to competence and to render a decision on that basis." Carter v. State, 576 So. 2d 1291, 1292 (Fla. 1989). "After the competency hearing, the trial court must make its own 'independent legal determination regarding whether the defendant is competent, after considering the expert testimony or reports and other relevant factors.'" Losada v. State, 260 So. 3d 1156, 1162 (Fla. 3d DCA 2018) (quoting Shakes v. State, 185 So. 3d 679, 682 (Fla. 2d DCA 2016).

ANALYSIS

After conducting competency hearings, which spanned nine days, and considering all relevant testimony and evidence as summarized above in addition to all of the testimony and evidence provided to the Court in the 2023 and 2024 competency proceedings,[48] this Court finds the Defendant is competent to stand trial at this time.

In making its decision, the Court considered the reports and testimony of all six psychological doctors who examined the Defendant as well as all of the additional testimony given and exhibits and evidence admitted at the hearings. The Court included the testimony and report of Dr. Tenaglia from SFETC largely because historical reports are relevant in competency proceedings.[49] The Court considered the jail video visitations, YouTube rap videos, and the video of Dr. Railey's interview of the Defendant, which enabled the Court to further observe the Defendant. All doctors indicated that they had reviewed numerous historical records, previous mental health reports, and extrinsic evidence, including school records, in determining the Defendant's diagnosis and his capacity to proceed, as well as to evaluate the possibility of malingering.

Observations of Conduct Outside Court

The Defendant is engaged with people and topics he is interested in and has a history of walking out or disengaging when he is not interested. The YouTube rap videos show the Defendant participating with his peer group, driving, and smiling. The video visitations with the Defendant's mother show he is bored with life in jail but he asks appropriate questions about renovations to the family home and how people are doing. He is not enthusiastic but he is engaged. The Defendant shows significantly more interest and more engagement when visiting with his brother. He was teasing his brother about his hair, discussing NFL football and television shows.

In contrast, he does not engage when asked to participate in any activity that does not interest him. When Desiree Baker, the Suncoast representative visited him at the jail he asked if he had to meet with her at their first visit and at her second visit, he walked out of the visitation as soon as he recognized her.[50]

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[48] The parties agreed to judicial notice and agreed the Court should consider evidence presented at the prior hearing. See July 23, 2025 transcript, pg. 43, line 24 through pg. 44. Line 6 (Dr. Hall).

[49] All of the doctors opined that historical reports are important in assessing a person's present competency.

[50] He also walked out of an interview with Dr. McClain and Dr. Fritz. Similarly, the school records indicate numerous instances where the Defendant walked out of class.

Observations in Court

The Court did not observe that the Defendant had any unusual gait, contrary to testimony that he had a distinctive autistic gait. He looked generally bored during most of the testimony but was fixated when his brother testified and attentive when his mother was present in the courtroom. He seemed particularly interested in Dr. Whitney's testimony related to the Defendant's You Tube videos.

Like his behavior outside court, the Defendant sought to walk out on the first day of testimony. He became agitated after deputies instructed him to keep his chair near the Defense table. He observed the proceedings from another courtroom for the morning session the second day, accompanied by the Defense mitigation specialist, but returned to the courtroom in the afternoon with accommodations for a second table.

Part of the Court's responsibilities is to not only listen to the testimony and view the evidence but to monitor the courtroom for any disruptions for example and to observe the Defendant. On numerous occasions during each day of testimony the Defendant made eye contact with the Court and held it until the Court looked away. This is inconsistent with Dr. McClain's testimony that he is resistant to eye contact and inconsistent with traits of autism as described by Dr. Whitney.[51]

School Records

The school records contained in Defense Exhibit 4 do not appear to be complete records. However, based on the records provided, they show that the Defendant was regularly provided with an Individualized Education Program (IEP) designed to assist him with a learning disability; mainly language and speech deficits. The IEP reports have a place to check for autism spectrum disorder (ASD) but, although a learning disability was identified, there was no indication throughout that ASD or ID was suspected. Specifically, in his 2013 IEP under the heading of "suspected areas of disability (check all that apply)" the educators in his life at the time in consult with the Defendant's mother had the option of checking the boxes for speech impaired, specific learning disability, autism spectrum disorder, traumatic brain injured, developmental delay and intellectual disability.[52] The only box checked was "language impaired." In the section of the IEP labeled "areas to be addressed," the form provides check boxes for sensory (vision, hearing),

[51] Dr. Whitney's testimony, August 20, 2025 transcript, pg. 18, line 15 through p. 19, line 13.
[52] Other options were available but none that are germane to this issue See Defense Exhibit 4, Tab 1.

speech, cognitive/developmental, social/emotional, academics and medical. The only box checked was academics. This form was signed and dated by the Defendant's mother and Jessica Daw, "Speech and Language Path, Lakewood Elementary."

In the Defendant's 2015 IEP, the primary exceptionality is identified as "specific learning disabled" and "language impaired." The IEP indicated that the Defendant needed help with "curriculum and learning environment" but the boxes for "independent functioning", "communication", "social/emotional" and "health care" are not checked. In the narrative portion of this IEP, it is noted that the Defendant, despite testing lower than his grade level on the FCAT, still achieved a B grade in World History in two consecutive grading periods although he performed poorly in most other areas.[53] His language arts teacher noted "Thomas is not motivated to complete the work, it was suggested that he takes work home to complete." The Defendant was given "accommodations" to assist him with his course work. On page 4 of this IEP the box for "the student has a significant cognitive disability" is checked "No". He was given accommodations but remained in general academics with his peers. The records reflect the Defendant did well when he chose to apply himself and did poorly when he missed class and did not complete homework assignment.

In the Defendant's IEP meeting on 10/3/2018, educators noted that the Defendant does not attend class and needed improved attendance in order to meet his academic goals. The IEP also notes that the Defendant's behavior impedes his learning or the learning of others. A case manager was assigned to assist the Defendant in self-advocacy and self-determination in Learning Strategies. Domains needed to be addressed as it relates to his disability are noted as Social/emotional, instruction and employment. The boxes for independent living, communication post-school adult living and daily living amongst others are checked "No". This IEP also references observations by teachers that the Defendant is having appropriate social interactions with his peers; however, he had 32 referrals in the previous school year for misconduct, defiance, leaving campus, and most notably being tardy. In the narrative portion, it is discussed that when the Defendant "is approached by an administrator or teacher, he is defiant, ignores directives and does not follow directions. He often just walks away when being spoken to..." One teacher reported "he just sits in his seat and refuses to work when he attends class. His language arts teacher

[53] Receiving a B in world history and being able to take the FCAT at all is inconsistent with the Defendant's statements at the state hospital that he could not read and cannot learn.

encouraged him to attend class but he refuses." Other educators note that he often walks out, does not complete work, has excessive tardies and has an attendance average of 74%. This IEP is replete with examples of the Defendant, walking out of class, not attending, not participating or doing assignments when in attendance and rushing through tests. Consistent with the school records from this year, a representative from the Tomlinson Adult Learning Center authored a letter indicating the Defendant's low motivation, lack of interest, and poor attendance.[54]

The Defendant's 2019 IEP is similar to the 2018 IEP with a few exceptions. The school psychologist provided feedback regarding counseling services offered to the Defendant. He only attended 9 of the scheduled 46 counseling sessions. He was absent for 37 of those 46 counseling days. The psychologist notes "Thomas is not invested in counseling at this time based on his very infrequent attendance and limited participation when present. This is consistent with teacher reports of his overall class performance."

The Defendant's 2020 IEP is consistent with the previous IEPs. During the 2020 IEP meeting, various teachers, a social worker, a special education teacher and the school psychologist participated. Throughout these IEP meetings when given an opportunity to simply check a box related to ID, Autism, or anything else other than a language/speech deficit and behavioral issues, not a single educator, or other school professional mentioned felt compelled to do so. The same is true for his records dating back to the third grade.[55] During his fourth-grade year, his parents expressed concerns that his behavior impedes his learning.[56]

The Defendant ran out of the classroom at Lakewood Elementary School.[57] The Defendant's language arts teacher noted he was not motivated. In the third grade, it was observed that the Defendant did not want to do the work despite being able to read, write, and do simple math. A third-grade psychological evaluation indicated no ASD or ID; it merely indicated he should try to improve his reading skills in an Exceptional Student Education (ESE) class. An end of year letter indicated that in the third grade, the Defendant required extensive reading remediation. There is a well-documented history of the school system providing him with assistance with language and reading. There is no history of suspected cognitive impairment, ID or ASD.

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[54] Defense Exhibit 4, tab 8.
[55] Defense Exhibit 4, tab 4.
[56] Defense Exhibit 4, tab 6.
[57] Defense Exhibit 4, tab 10.

Dr. McClain testified the school records indicated that the Defendant was interviewed by a vocational education specialist who assisted the Defendant in constructing a plan to accomplish his goal of becoming a music engineer after graduating high school, showing adaptive functioning and the ability to make future plans.[58] His history teacher reported appropriate social interaction with peers and teachers in class.[59]

Dr. McClain testified extensively about the Defendant's speech and language deficits noted in the school records. However, the distinction between the Defendant's potential inability to articulate a thought is vastly different from the Defendant's current outright refusal to speak with his lawyers or any other professional involved in this case about the accusations made against him. Speech and language deficits are not a factor when dealing with the Defendant's well-documented avoidance behavior. It has become clear throughout the testimony and evidence presented in this case that if the Defendant does not want to do something, such as school work, attending class, meeting with Suncoast or a psychologist, or being present in court, he simply does not participate or leaves.

The Court finds the plain reading of the school records to be very persuasive when discerning between lack of effort versus cognitive impairment/ID/ASD. Dr. McClain and to a lesser extent Dr. Hall routinely interpret the school records to be indications of cognitive impairment/ID/ASD. They both acknowledge that poor effort and avoidance like behaviors can be interpreted as symptoms of cognitive impairment/ID/ASD. The Court does not find their interpretation of the school records persuasive. The school system professionals that authored the school records and participated in evaluations of the Defendant were seeing the Defendant on a daily basis during the school year when he chose to attend. Their opinions offered in those records as to why the defendant was struggling in school are far more persuasive than any doctors' interpretation of those records years after they were authored.

The records also indicated he had appropriate social interaction with his peers and teachers in class, had plans to seek additional education after graduating high school, and reported he could make a bed, clean the house, wash dishes, carry out trash, babysit, mow lawns, cook, and do

[58] July 9, 2025 transcript, pg. 31, line 21 through p. 32, line 1.
[59] July 9, 2025 transcript, pg. 33, lines 15-22.

laundry.[60] He also went to the YMCA, rap clubs, movies, and to sport arenas for recreational activities and had obtained a driver's license.[61]

Intellectual Disability/ Autism Spectrum Disorder

Dr. McClain recommended ID testing for the Defendant in her 2024 testimony. Based on her recommendation, the Court in its 2024 Order of Incompetency encouraged ID testing. The SFETC complied. However, in Dr. McClains's July, 2025 testimony she testified that it was inappropriate for doctors at SFETC to conduct ID testing in an institutional setting.[62] Then in August, 2025, she conducted ID testing on the Defendant in an institutional setting at the Pinellas County Jail.

Dr. McClain explained that self-reporting related to intellectual disability alone is disfavored due to the cloak of competency, which is when a person tries to appear like they are functioning normally and sometimes overcorrects and presents as understanding something they do not understand. Although this may be a relevant consideration in an educational or community setting, the Court suspects the opposite would be true in a competency evaluation when malingering is suspected. The Court does not find the "cloak of competency" theory persuasive.

Dr. Hall testified that collateral and historical information is very important when attempting to diagnose ID. Specifically, he indicated the importance of relying on school records yet questioned the accuracy of the records provided when confronted with the observation that not one professional in the education setting suggested ID, ASD cognitive impairment, or anything other than a learning disability and behaviors interfering in his ability to learn.[63] Further, Dr. Hall testified to reviewing records related to the Defendant's two Baker Acts.[64] The Court was not provided with any details as to what if anything the Defendant was diagnosed with during those evaluations or whether the evaluating doctors suspected cognitive impairment, ID, or ASD.

The Defendant's family, specifically Mrs. Mosley, qualifies as a collateral source of information. Mrs. Mosley was an active participant throughout the reviewed school records. However, inside of an educational setting when family is discussing with educators what can be

[60] July 9, 2025 transcript, pg. 36, line 5 through p. 37, line 5.
[61] July 9, 2025 transcript, pg. 37, lines 7 through 20.
[62] July 9, 2025 transcript, pg. 85, line 16 through pg. 86, line 19.
[63] Dr. Torrealday noted a similar observation about the lack of school records suggesting anything other than a learning disability.
[64] July 23, 2025 transcript, pg. 50, lines 6-7.

done to assist the Defendant in school, is a vastly different scenario from an opinion post arrest. The Court must consider the potential for bias.[65] The Court considered Mrs. Mosley's testimony but what she did not talk about is equally as important. The Defendant referenced receiving SSI benefits until the age of 18. Mrs. Mosley did not testify to this. If it is true, there is no testimony or evidence on the record that indicates whether he received benefits for a learning disability, mental illness, ID or ASD. In addition, Mrs. Mosley sought out the assistance of medical professionals and a psychiatrist, unconnected to the school system. These records have not been provided to the Court. It is unknown if ASD or ID was ever a consideration while under the care of these doctors.

The Court heard hours of testimony related to ID and ASD. This Court finds the Defendant is competent to proceed therefore this Court makes no finding as to whether or not the Defendant is intellectually disabled, cognitively impaired or on the spectrum.

Similar to testimony at the 2024 hearing, criteria 4 and 6 were mainly the focus for a finding of overall incompetency from those doctors that did so. The Court is faced with the same issue: Is the Defendant not communicating about the allegations in his case because he can't, or because he doesn't want to? Dr. Hall discussed in 2024 the idea of intrusive thoughts.[66] This deals with the idea that the Defendant does not wish to discuss the allegations against him because he can't stop thinking about them. The Defendant's description of seeing blood, especially when he is in the shower, appears to be more like an intrusive thought than a delusion. The Defendant is concerned that talking about the allegations would cause him to think about it more. Further, if these intrusive thoughts are only occurring in the shower, they should not prevent him from talking to his lawyers or any other professional about his case since he seems to be able to converse with them about a whole host of other topics, especially topics in which he is demonstrates interest. The Court considered Dr. Hall's "intrusive thoughts"[67] testimony coupled with the SFETC housing the Defendant for 83 days with no professional observing him in a state of psychosis, nor any other professional in this case, except for Dr. McClain. Dr. Hall found the Defendant Competent to proceed in all criteria except for criteria 4 and 6, which he noted as only Questionable. The Court finds Dr. Hall's testimony persuasive.

[65] A concern shared by Dr. Railey
[66] June 20, 2024 transcript, pgs. 264-66.
[67] June 20, 2024 transcript, pgs. 265-66.

The Practice Effect

Dr. Hall testified that when reviewing the MMSE done at SFETC if the Defendant were trying to look impaired or cognitively deficient, he would have expected him to do poorly. Dr. Hall was discussing the SFETC finding as it relates to malingering. Dr. Hall also testified that the Defendant's school records demonstrate effort problems dating back to the third grade. Further, he discussed that there is no reason to malinger in the third grade.[68] The Court disagrees. The Defendant sat through multiple days of hearings in 2024 and 9 days of testimony this year, listening to doctors opine that because the Defendant refuses to discuss the facts of his case, he is incompetent. It is a reasonable conclusion for the Defendant to believe that if he continues to not discuss the facts of his case, he will remain in a hospital setting instead of in jail or prison.

When discussing lack of effort in the third grade, the Defendant has shown a pattern of behavior of refusing to participate in non-preferred activity. If he did not want to be in class, he left. When he did not want to do school work, he just sat in class or didn't show up. If he did not want to hear a doctor testify in his case, he left. When the Suncoast representative came to visit him in the jail, he left. When he didn't want to talk to Dr. McClain anymore, he left. He rushed through exams. He rushed through exams and interviews giving any answer just to get it over with. The secondary gain is avoiding non-preferred activity. In contrast, the Defendant was alert with his eyes glued on his brother and mother when they testified. He was interactive and responsive with his family during visitations. He demonstrated interest in showing Dr. Whitney his YouTube channel and videos.[69] Although this may not be properly labeled as malingering, his avoidant behavior has made either school testing or testing for this case incredibly difficult. Without the Defendant's willing participation and full effort, it is difficult to discern the Defendant's true capabilities via testing.

Dusky Criteria

Since there was conflicting expert testimony regarding the Dusky criteria, this Court is required to make a factual determination based upon all relevant evidence. See Hardy, 716 So. 2d at 764. The Court makes the following findings with regard to the Dusky criteria:

[68] July 23, 2025 transcript, pg. 106 line 22 through pg. 107 line 8
[69] August 20, 2025 transcript, pg. 108, line 24 through pg. 110, line 9.

1. Capacity to Appreciate the Charges

This Court finds that the Defendant has the capacity to appreciate the charges or allegations. There was sufficient evidence presented that the Defendant is aware of the charges against him. Although he did not want to discuss the details of the offenses, he expressed to the various doctors that he understood the charges. Of the six doctors[70] that evaluated the Defendant for competency, all doctors found the Defendant Acceptable in this criterion.

2. Capacity to Appreciate the Range and Nature of Possible Penalties

This Court finds that the Defendant has the capacity to appreciate the range and nature of possible penalties. The evidence indicates that the Defendant understands the maximum penalty that can be imposed in this case, which is the death penalty. Of the six doctors that evaluated the Defendant for competency, all doctors except for Dr. Whitney, found the Defendant Acceptable in this criterion.

3. Ability to Understand the Adversarial Nature of the Proceedings and Roles of the Parties

The Court finds that the Defendant has the ability to understand the adversarial nature of the proceedings and the roles of the parties. Of the six doctors that evaluated the Defendant for competency, all doctors except for Dr. Whitney, found the Defendant Acceptable in this criterion.

4. Ability to Disclose Important and Relevant Facts to Counsel

The Court finds that the Defendant has the ability to disclose important and relevant facts to counsel. Dr. Railey, Dr. Torrealday, and Dr. Tenaglia found the Defendant acceptable in this criterion. Dr. McClain and Dr. Whitney found the Defendant unacceptable. Dr. Hall found the Defendant to be questionable. He is merely unwilling to communicate, stating that he will communicate when he is ready.

5. Ability to Manifest Appropriate Courtroom Behavior

The Court finds that the Defendant has the capacity to manifest appropriate courtroom behavior. Other than a disturbance apparently due to insufficient space at counsel table, the Defendant has been quiet and compliant in court. Of the six doctors that evaluated the Defendant for competency, all doctors found the Defendant Acceptable in this criterion.

6. Ability to Testify

[70] Dr. McClain, Dr. Hall, Dr. Railey, Dr. Torrealday, Dr. Tenaglia, Dr. Whitney

The Court finds the Defendant has the capacity to testify relevantly. Dr. McClain and Dr. Whitney found the Defendant to be unacceptable in this criterion. Dr. Hall found the Defendant to be questionable. Dr. Torrealday, Dr. Railey and Dr. Tenaglia found the Defendant to be acceptable. Although the Defendant routinely provides one-word answers and simple phrases when answering questions, this does not mean he does not understand or appreciate them. Because the Defendant did not make the effort to provide detailed answers to the questions asked does not mean he cannot appreciate the nature of the charges against him for example.

CONCLUSIONS OF LAW

The evidence presented during nine days of competency hearings and the relevant testimony and evidence as summarized above indicates that the Defendant is competent to proceed in accordance with the Dusky criteria and 916.12, Florida Statutes, and Florida Rule of Criminal Procedure 3.211. Therefore, it is this Court's finding that the State has demonstrated by a preponderance of the evidence that the Defendant is competent to proceed.

Accordingly, it is

ORDERED AND ADJUDGED that the Defendant is **COMPETENT TO PROCEED.**

DONE AND ORDERED in Chambers at Clearwater, Pinellas County, Florida, this 1st day of October, 2025. A true and correct copy of this order has been furnished to the parties listed below.

Susan St. John, Circuit Judge

cc: Office of the State Attorney
Attn: Courtney Sullivan, Esq.

Office of the Public Defender
Attn: Julia Seifer-Smith, Esq.