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IN THE SUPREME COURT OF FLORIDA

CORNELIUS BAKER,)
)

Appellant,)
)
)
vs.) CASE NO.
SC09-549)
)
STATE OF FLORIDA,)
)
)
Appellee.)
_____)

Preliminary Statement

Counsel will refer to the state’s answer brief as “AB” followed by the appropriate page number. The undersigned counsel will only reply to the points necessary. Counsel stands on his brief on the other issues raised.

ARGUMENTS

POINT I

IN REPLY TO THE STATE AND IN SUPPORT OF THE CONTENTION THAT THE TRIAL COURT ERRED IN DENYING APPELLANT'S MOTION TO SUPPRESS WHERE APPELLANT'S STATEMENT TO DETECTIVES WAS INDUCED BY IMPROPER PROMISES.

Appellee is apparently correct in his statement that the record contains no explicit denial of appellant's motion to suppress. The trial court announced at the hearing that he would review the DVD and rule at a later time. (VII 28-30, 35) However, the statement was subsequently introduced at trial over appellant's "renewed" objection. (XIII 811-906) Appellant submits that this issue has been preserved for appellate review.

POINT IV

IN REPLY TO THE STATE AND IN SUPPORT OF THE CONTENTION THAT THE TRIAL COURT ERRED IN FINDING THAT THE MURDER OF ELIZABETH UPTAGRAFFT WAS COMMITTED IN A COLD, CALCULATED AND PREMEDITATED MANNER WITHOUT ANY PRETENSE OF MORAL OR LEGAL JUSTIFICATION.

Appellee takes one isolated excerpt from Baker's confession in a vain attempt to support this aggravating factor. Even that short excerpt is ambiguous at best. Baker "felt like if I was going to go down, I might as well go down for something.... So I took her out there in the Mondex, and I shot her again, but when I shot her, I just shot her and walked away." (XIII 855; AB 39) Baker goes into much more detail about the couple's plan in other parts of his confession.

Baker's original plan was to get the money from the ATM and drop Uptagrafft back at the house, a hospital, or somewhere on the side of the road. (XIII 889) Baker headed to Flagler County when he observed lots of police activity in the Daytona Beach area. (XIII 889-90) Baker explained, "and because I honestly didn't plan on shooting her again, it never crossed my mind to shoot her again." (XIII 890) Baker assured Uptagrafft that he intended to let her live so long as she

cooperated. (XIII 891) Subsequently, Baker decided that a rural area, where the body was ultimately found, would be a good place to drop off Uptagrafft. Baker explained it would take her some time to walk back to civilization to call authorities. (XIII 891-92)

After driving down a dirt road, Baker stopped the car, Uptagrafft got out of the car, and Baker told her that she was going to live. As she walked away, Baker drove approximately fifteen feet, but suddenly had a change of heart. He stopped the car and got out of it. (XIII 874) Roossa warned Baker, “Don’t do it.” (XIII 874) Baker told the detectives, “I felt like I’d done come this far.” (XIII 874) As Uptagrafft began to run, Baker shot her twice in rapid succession as he ran after her. (XIII 874-877) Once Baker led authorities to the body, Baker again asserted that “it wasn’t supposed to go down like that.” (XIII 910)

Uptagrafft’s murder was many things, but it was not cold, calculated, and premeditated without any pretense of moral or legal justification as this Court has precisely defined.

CONCLUSION

Based upon the foregoing cases, authorities, policies, and arguments, Appellant respectfully requests this Honorable Court to vacate Appellant's sentences and remand for a new trial as to Point I. As to Points II and III, appellant asks this Court to vacate his death sentence and remand for a new penalty phase. As for Points IV, V, VI, and VII, appellant asks this Court to vacate his death sentence and remand for the imposition of a life sentence without possibility of parole.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been hand- delivered to the Honorable Bill McCollum, Attorney General, 444 Seabreeze Boulevard, Fifth Floor, Daytona Beach, Florida 32118, via his basket at the Fifth District Court of Appeal and mailed to Cornelius Baker, DC#V25581, Florida State Prison, 7819 N.W. 228th St., Raiford, FL 32026, this 12th day of March, 2010.

CHRISTOPHER S. QUARLES
ASSISTANT PUBLIC DEFENDER

CERTIFICATE OF FONT

I hereby certify that the size and style of type used in this brief is point proportionally spaced Times New Roman, 14 pt.

CHRISTOPHER S. QUARLES
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