ORIGINAL

IN THE SUPREME COURT OF OHIO
CASE NO. _____ 11-1921

THE STATE OF OHIO,	)	DEATH PENALTY CASE
	)	
Appellee,	)	On appeal from the Cuyahoga County Court of Common Pleas,
	)	
vs.	)	
	)	Case No. CR-09-530885
ANTHONY SOWELL,	)	
	)	
Appellant.	)	

NOTICE OF APPEAL

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NOTICE OF APPEAL OF APPELLANT ANTHONY SOWELL

Appellant Anthony Sowell hereby gives notice that he will appeal, on questions of law and fact, to the Supreme Court of Ohio from the judgment and sentence of the Cuyahoga County Court of Common Pleas, entered and journalized in Case No. CR-09-530885, in entries dated August 31, 2011, and October 5, 2011.

This is a death penalty case.

Respectfully submitted,

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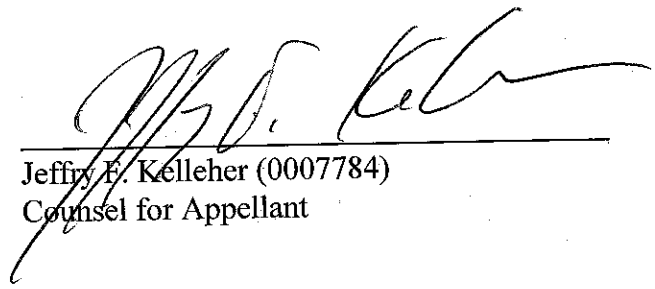
CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Notice of Appeal was sent by regular U.S. Mail to William D. Mason, Esq., Cuyahoga County Prosecutor, Justice Center - 8th Floor, 1200 Ontario Street, Cleveland, Ohio 44113, on November 7, 2011



Jeffry E. Kelleher (0007784)
Counsel for Appellant

70104865

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

THE STATE OF OHIO
Plaintiff

ANTHONY SOWELL
Defendant

Case No: CR-09-530885-A

Judge: DICK AMBROSE

INDICT: 2903.01 AGGRAVATED MURDER /FMS /CCS /SMS /SVPS /NPC /RVOS
2903.01 AGGRAVATED MURDER /FMS /CCS /SMS /SVPS /NPC /RVOS
2905.01 KIDNAPPING /NPC /RVOS /SMS /SVPS
ADDITIONAL COUNTS...

JOURNAL ENTRY

SENTENCING HEARING HELD ON 8/12/11 WITH MODIFICATION OF SENTENCE AS TO COUNTS 69,72,73,74,76,78,79,80,82 AND 84 OCCURRING ON 8/30/11. THIS JOURNAL REPRESENTS THE COURT'S FINAL ENTRY OF CONVICTION.

DEFENDANT IN COURT. COUNSEL JOHN P PARKER AND RUFUS SIMS PRESENT. PROSECUTING ATTORNEY(S) RICHARD BOMBICK, PINKEY CARR AND LAUREN BELL PRESENT. COURT REPORTER TRACY VARGO PRESENT.

ON A FORMER DAY OF COURT THE JURY RETURNED A VERDICT OF
GUILTY OF AGGRAVATED MURDER 2903.01 A, WITH FELONY MURDER SPECIFICATIONS (1-2)(2929.04(A)(7)), COURSE OF CONDUCT SPECIFICATIONS (3-15)(2929.04(A)(5)), AND SEXUAL MOTIVATION SPECIFICATION (16) (2941.147), AS CHARGED IN COUNT(S) 1, 7, 13, 19, 25, 31, 43, 49, 55, 61 OF THE INDICTMENT.
THE COURT FOUND THE DEFENDANT GUILTY OF SEXUAL VIOLENT PREDATOR SPECIFICATIONS (2941.148), NOTICE OF PRIOR CONVICTION, AND REPEAT VIOLENT OFFENDER SPECIFICATIONS (2941.149), AS CHARGED IN COUNT(S) 1, 7, 13, 19, 25, 31, 43, 49, 55, 61 OF THE INDICTMENT.

ON A FORMER DAY OF COURT THE JURY RETURNED A VERDICT OF GUILTY OF AGGRAVATED MURDER 2903.01 B, WITH FELONY MURDER SPECIFICATIONS (1-2)(2929.04(A)(7)), COURSE OF CONDUCT SPECIFICATIONS (3-15)(2929.04(A)(5)), AND SEXUAL MOTIVATION SPECIFICATION (16) (2941.147), AS CHARGED IN COUNT(S) 2, 8, 14, 20, 26, 32, 44, 50, 56, 62 OF THE INDICTMENT.
THE COURT FOUND THE DEFENDANT GUILTY OF SEXUAL VIOLENT PREDATOR SPECIFICATIONS (2941.148), NOTICE OF PRIOR CONVICTION, AND REPEAT VIOLENT OFFENDER SPECIFICATIONS (2941.149), AS CHARGED IN COUNT(S) 2, 8, 14, 20, 26, 32, 44, 50, 56, 62 OF THE INDICTMENT.

ON A FORMER DAY OF COURT THE JURY RETURNED A VERDICT OF KIDNAPPING 2905.01 A(3) F1, WITH SEXUAL MOTIVATION SPECIFICATION (2941.147), IN COUNT(S) 3, 9, 15, 21, 27, 33, 45, 51, 57, 63, 68, 74, 81 OF THE INDICTMENT. THE COURT FOUND THE DEFENDANT GUILTY OF SEXUAL VIOLENT PREDATOR SPECIFICATIONS (2941.148), NOTICE OF PRIOR CONVICTION, AND REPEAT VIOLENT OFFENDER SPECIFICATIONS (2941.149), AS CHARGED IN COUNT(S) 3, 9, 15, 21, 27, 33, 45, 51, 57, 63, 68, 74, 81 OF THE INDICTMENT.

ON A FORMER DAY OF COURT THE JURY RETURNED A VERDICT OF GUILTY OF KIDNAPPING 2905.01 A(4) F1, WITH SEXUAL MOTIVATION SPECIFICATION (2941.147), ~~AS CHARGED IN COUNT(S) 4, 10, 16, 22, 28, 34, 46, 52, 58, 64, 67, 75,~~ 80 OF THE INDICTMENT.
THE COURT FOUND THE DEFENDANT GUILTY OF SEXUAL VIOLENT PREDATOR SPECIFICATIONS (2941.148), NOTICE OF PRIOR CONVICTION, AND REPEAT VIOLENT OFFENDER SPECIFICATIONS (2941.149), AS CHARGED IN COUNT(S) 4, 10, 16, 22, 28, 34, 46, 52, 58, 64, 67, 75, 80 OF THE INDICTMENT.

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ON A FORMER DAY OF COURT THE JURY RETURNED A VERDICT OF GUILTY OF OFFENSES AGAINST HUMAN CORPSE 2927.01 B F5, AS CHARGED IN COUNT(S) 5, 11, 17, 23, 29, 35, 41, 47, 53, 59, 65 OF THE INDICTMENT.

ON A FORMER DAY OF COURT THE JURY RETURNED A VERDICT OF GUILTY OF TAMPERING WITH EVIDENCE 2921.12 A(1) F3, AS CHARGED IN COUNT(S) 6, 12, 18, 24, 30, 36, 42, 48, 54, 60, 66 OF THE INDICTMENT.

ON A FORMER DAY OF COURT THE JURY RETURNED A VERDICT OF GUILTY OF AGGRAVATED MURDER 2903.01 A, WITH COURSE OF CONDUCT SPECIFICATIONS (3-15)(2929.04(A)(5)), UNDER COUNT(S) 37 OF THE INDICTMENT. PURSUANT TO CRIMINAL RULE 29, THE COURT DISMISSED FELONY MURDER SPECIFICATIONS (1-2) AND SEXUAL MOTIVATION SPECIFICATION (16)(2941.147), AS CHARGED ON COUNT(S) 37 OF THE INDICTMENT.

THE COURT FOUND THE DEFENDANT GUILTY OF SEXUAL VIOLENT PREDATOR SPECIFICATION (2941.148), NOTICE OF PRIOR CONVICTION, AND REPEAT VIOLENT OFFENDER SPECIFICATION (2941.149), AS CHARGED IN COUNT(S) 37 OF THE INDICTMENT.

ON A FORMER DAY OF COURT THE JURY RETURNED A VERDICT OF GUILTY OF ATTEMPTED, MURDER 2923.02/2903.02 A F1, WITH SEXUAL MOTIVATION SPECIFICATION (2941.147), IN COUNT(S) 69, 76, 82 OF THE INDICTMENT.
THE COURT FOUND THE DEFENDANT GUILTY OF SEXUAL VIOLENT PREDATOR SPECIFICATIONS (2941.148), NOTICE OF PRIOR CONVICTION, AND REPEAT VIOLENT OFFENDER SPECIFICATIONS (2941.149), AS CHARGED IN COUNT(S) 69, 76, 82 OF THE INDICTMENT.

ON A FORMER DAY OF COURT THE JURY RETURNED A VERDICT OF GUILTY OF FELONIOUS ASSAULT 2903.11 A(1) F1, WITH SEXUAL MOTIVATION SPECIFICATION (2941.147), IN COUNT(S) 70, 77, 83 OF THE INDICTMENT.
THE COURT FOUND THE DEFENDANT GUILTY OF SEXUAL VIOLENT PREDATOR SPECIFICATIONS (2941.148), NOTICE OF PRIOR CONVICTION, AND REPEAT VIOLENT OFFENDER SPECIFICATIONS (2941.149), AS CHARGED IN COUNT(S) 70, 77, 83 OF THE INDICTMENT.

ON A FORMER DAY OF COURT THE JURY RETURNED A VERDICT OF GUILTY OF FELONIOUS ASSAULT 2903.11 A(2) F1, WITH SEXUAL MOTIVATION SPECIFICATION (2941.147), IN COUNT(S) 71 OF THE INDICTMENT.
THE COURT FOUND THE DEFENDANT GUILTY OF SEXUAL VIOLENT PREDATOR SPECIFICATION (2941.148), NOTICE OF PRIOR CONVICTION, AND REPEAT VIOLENT OFFENDER SPECIFICATION (2941.149), AS CHARGED IN COUNT(S) 71 OF THE INDICTMENT.

ON A FORMER DAY OF COURT THE JURY RETURNED A VERDICT OF GUILTY OF RAPE 2907.02 A(2) F1, IN COUNT(S) 72, 73, 78, 79 OF THE INDICTMENT.
THE COURT FOUND THE DEFENDANT GUILTY OF SEXUAL VIOLENT PREDATOR SPECIFICATIONS (2941.148), NOTICE OF PRIOR CONVICTION, AND REPEAT VIOLENT OFFENDER SPECIFICATIONS (2941.149), AS CHARGED IN COUNT(S) 72, 73, 78, 79 OF THE INDICTMENT.

ON A FORMER DAY OF COURT THE JURY RETURNED A VERDICT OF GUILTY OF ATTEMPTED, RAPE 2923.02/2907.02 A(2) F2, IN COUNT(S) 84 OF THE INDICTMENT. THE COURT FOUND THE DEFENDANT GUILTY OF SEXUAL VIOLENT PREDATOR SPECIFICATION (2941.148), NOTICE OF PRIOR CONVICTION, AND REPEAT VIOLENT OFFENDER SPECIFICATION (2941.149), AS CHARGED IN COUNT(S) 84 OF THE INDICTMENT.

THE JURY RETURNED A VERDICT OF NOT GUILTY OF AGGRAVATED ROBBERY 2911.01 A(3), IN COUNT(S) 85 OF THE INDICTMENT.

RULE 29 WAS GRANTED AS TO COUNT(S) 38, 39, 40.

IN ACCORDANCE WITH R.C. 2941.25(A), THE STATE ELECTED TO PROCEED AT SENTENCING ON THOSE COUNTS OF

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AGGRAVATED MURDER CHARGED UNDER 2903.01(A). THEREFORE, THE COURT MERGES THE AGGRAVATED MURDER CHARGES UNDER 2903.01(B), SET FORTH IN COUNTS 2,8,14,20,26, 32,44,50,56 AND 62, INTO COUNTS 1,7,13,19,25,31,43,49,55 AND 61.

THE COURT MERGES KIDNAPPING COUNTS, 3,4,9,10,15,16,21,22,27,28,33,34, 45,46,51,52,57,58,63 AND 64, INTO CORRESPONDING AGGRAVATED MURDER CHARGES, 1,7,13,19,25,31,37,43,49,55 AND 61, FINDING THEM TO BE ALLIED OFFENSES OF SIMILAR IMPORT. THE COURT MERGES THE KIDNAPPING CHARGES IN COUNTS 67 AND 68, AND THE FELONIOUS ASSAULT CHARGES IN COUNTS 70 AND 71, WITH THE CHARGE OF ATTEMPTED MURDER IN COUNT 69, FINDING THEM TO BE ALLIED OFFENSES OF SIMILAR IMPORT. THE COURT MERGES THE KIDNAPPING CHARGE IN COUNT 75 WITH THE KIDNAPPING CHARGE IN COUNT 74; THE FELONIOUS ASSAULT IN COUNT 77 WITH THE ATTEMPTED MURDER IN COUNT 76; THE KIDNAPPING IN COUNT 81 WITH THE KIDNAPPING IN COUNT 80; AND THE FELONIOUS ASSAULT IN COUNT 83 WITH THE ATTEMPTED MURDER IN COUNT 82, FINDING THEM TO BE ALLIED OFFENSES OF SIMILAR IMPORT.

DEFENSE COUNSEL JOHN PARKER ADDRESSES THE COURT.
PROSECUTORS RICHARD BOMBICK AND PINKEY CARR ADDRESS THE COURT, THE FOLLOWING VICTIMS/REPRESENTATIVES ADDRESS THE COURT:
SHAWN MORRIS; GLADYS WADE; DONNITA CARMICHAEL; KYANA HUNT; JIM ALLEN; FLORENCE BRAY; DEBORAH WILLIAMS; DENISE HUNTER; YVONNE WILLIAMS; ADALEEN ATTERBERRY; DON SMITH; SHANISHA COLLINS; AND DOROTHY POLLARD.
THE COURT CONSIDERED ALL REQUIRED FACTORS OF THE LAW.
THE COURT FINDS THAT PRISON IS CONSISTENT WITH THE PURPOSES AND PRINCIPLES OF R.C. 2929.11 AND, IN ACCORDANCE WITH R.C. 2929.03 (C)(2), R.C. 2929.14 AND R.C. 2971.03(A), THE COURT IMPOSES THE FOLLOWING PRISON SENTENCES:

COUNT 1-THE COURT IMPOSES THE SENTENCE OF DEATH.
COUNTS 2, 3, & 4 MERGE INTO COUNT 1.
COUNT 5-12MOS.
COUNT 6-5YRS.
COUNT 7-THE COURT IMPOSES THE SENTENCE OF DEATH.
COUNTS 8, 9, & 10 MERGE INTO COUNT 7.
COUNT 11-12 MOS.
COUNT 12-5YRS.
COUNT 13-THE COURT IMPOSES THE SENTENCE OF DEATH.
COUNTS 14, 15 & 16 MERGE INTO COUNT 13.
COUNT 17-12MOS.
COUNT 18-5YRS.
COUNT 19-THE COURT IMPOSES THE SENTENCE OF DEATH.
COUNTS 20, 21, & 22 MERGE INTO COUNT 19.
COUNT 23-12MOS.
COUNT 24-5YRS.
COUNT 25-THE COURT IMPOSES THE SENTENCE OF DEATH.
COUNTS 26, 27 & 28 MERGE INTO COUNT 25.
COUNT 29-12MOS.
COUNT 30-5YS.
COUNT 31-THE COURT IMPOSES THE SENTENCE OF DEATH.
COUNTS 32, 33 & 34 MERGE INTO COUNT 31.
COUNT 35-12MOS.
COUNT 36-5YRS.
COUNT 37-THE COURT IMPOSES THE SENTENCE OF DEATH.
COUNT 41-12MOS.
COUNT 42-5YRS.

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COUNT 43-THE COURT IMPOSES THE SENTENCE OF DEATH.
COUNTS 44, 45 & 46 MERGE INTO COUNT 43.
COUNT 47-12MOS.
COUNT 48-5YRS.
COUNT 49-THE COURT IMPOSES THE SENTENCE OF DEATH.
COUNTS 50, 52 & 52 MERGE INTO COUNT 49.
COUNT 53-12MOS.
COUNT 54-5YRS.
COUNT 55-THE COURT IMPOSES THE SENTENCE OF DEATH.
COUNTS 56, 57 & 58 MERGE INTO COUNT 55.
COUNT 59-12MOS.
COUNT 60-5YRS.
COUNT 61-THE COURT IMPOSES THE SENTENCE OF DEATH.
COUNTS 62, 63 & 64 MERGE INTO COUNT 61.
COUNT 65-12MOS.
COUNT 66-5YRS.
COUNT 69-10YRS TO LIFE
COUNTS 67, 68 & 70, 71 MERGE INTO COUNT 69.
COUNT 72-10YRS. TO LIFE
COUNT 73-10YRS. TO LIFE
COUNT 74-10YRS. TO LIFE
COUNT 75-MERGES INTO COUNT 74
COUNT 76-10YRS. TO LIFE
COUNT 77-MERGES INTO COUNT 76
COUNT 78-10YRS. TO LIFE
COUNT 79-10YRS. TO LIFE
COUNT 80-10YRS. TO LIFE
COUNT 81-MERGES INTO COUNT 80
COUNT 82-10YRS. TO LIFE
COUNT 83-MERGES INTO COUNT 82
COUNT 84-8 YRS. TO LIFE

COUNTS 1, 7, 13, 19, 25, 31, 43, 49, 55, 61 ARE TO RUN CONCURRENT TO ONE ANOTHER. ALL REMAINING COUNTS ARE TO RUN CONSECUTIVE AS THE COURT FINDS THAT CONSECUTIVE SENTENCES ARE NECESSARY TO PROTECT THE PUBLIC AND TO PUNISH THE OFFENDER, GIVEN THE FACT THAT MULTIPLE OFFENSES WERE COMMITTED AS PART OF A COURSE OF CONDUCT. THE COURT ALSO FINDS THAT THE HARM CAUSED WAS SO GREAT THAT NO SINGLE PRISON TERM FOR THE OFFENSES WOULD ADEQUATELY PUNISH THE OFFENDER.

POST RELEASE CONTROL IS PART OF THIS PRISON SENTENCE FOR 3YEARS, AT THE DISCRETION OF THE ADULT PAROLE AUTHORITY, FOR COUNTS 5,6,11,12,17,18,23,24,29,30,35,36,41,42,47,48,53,54,59,60,65 AND 66 UNDER R.C.2967.28. DEFENDANT ADVISED THAT IF POST RELEASE CONTROL SUPERVISION IS IMPOSED FOLLOWING HIS RELEASE FROM PRISON AND IF HE VIOLATES THAT SUPERVISION OR CONDITION OF POST RELEASE CONTROL, THE PAROLE BOARD MAY IMPOSE A PRISON TERM OF UP TO ONE-HALF OF THE STATED PRISON TERM ORIGINALLY IMPOSED UPON THE OFFENDER.

FOR ALL REMAINING COUNTS FOR WHICH DEFENDANT WAS SENTENCED TO A TERM OF LIFE IMPRISONMENT, DEFENDANT IS SUBJECT TO PAROLE AS PROVIDED UNDER R.C. 2967.13.

THE COURT SETS 10/29/2012 AS THE DATE OF EXECUTION ON COUNTS 1,7,13,19,25,31,37,43,49,55 AND 61.

DEFENDANT TO RECEIVE 650 DAYS JAIL CREDIT TO DATE.
DEFENDANT DECLARED INDIGENT.

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COSTS WAIVED.
DEFENDANT ADVISED OF APPEAL RIGHTS.
DEFENDANT INDIGENT, COURT APPOINTS THOMAS REIN AND JEFFRY KELLEHER AS COUNSEL ON APPEAL.
TRANSCRIPT AT STATE'S EXPENSE.
DEFENDANT REMANDED.
SHERIFF ORDERED TO TRANSPORT DEFENDANT ANTHONY SOWELL, DOB: 08/19/1959, GENDER: MALE, RACE: BLACK.

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Judge Signature 08/30/2011

THE STATE OF OHIO
Cuyahoga County } SS.
I, GERALD E. FUERST, CLERK OF THE COURT OF COMMON PLEAS WITHIN AND FOR SAID COUNTY.
HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY TAKEN AND COPIED FROM THE ORIGINAL CRIMINAL Journal Entry CR 530865
NOW ON FILE IN MY OFFICE.
WITNESS MY HAND AND SEAL OF SAID COURT THIS 31
DAY OF August A.D. 20 11
GERALD E. FUERST, Clerk
By Chadace McCaffery Deputy

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IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

STATE OF OHIO	)	CASE NO. 530885
	)	
vs.	)	Judge DICK AMBROSE
	)	
	)	
ANTHONY SOWELL	)	SENTENCING OPINION
	)	(Pursuant to O.R.C. § 2929.03(F))

August 24, 2011

PROCEDURAL BACKGROUND

{¶1} On July 22, 2011 the jury in this capital murder case returned verdicts finding the defendant, **Anthony Sowell**, guilty beyond a reasonable doubt of all but one of the 82 counts of the Indictment along with multiple specifications that were submitted to them.[1] Of those verdicts, twenty-one were for Aggravated Murder.[2] For those counts, the jury found the defendant guilty of purposely causing the deaths of Tonia Carmichael, Nancy Cobbs, Tishana Culver, Crystal Dozier, Telacia Fortson, Amelda Hunter, Leshanda Long, Michelle

1. The jury acquitted the defendant of the charge in Count 85 - Aggravated Robbery. Prior to submission of the case to the jury, the Court dismissed counts 38, 39 and 40 pursuant to Crim. R. 29.
2. Defendant was charged under both sections (A) and (B) of R.C. 2903.01 for each of the 11 victims of Aggravated Murder and the jury found him guilty on all 21 counts.(Count 38 was dismissed under Crim. R. 29, as noted above). Prior to the mitigation phase, the State elected and the Court merged the counts charged under R.C. 2903.01(B) into the counts charged under R.C. 2903.01(A).

Mason, Kim Yvettee Smith, Janice Webb, and Diane Turner, with prior calculation and design (R.C. §2903.01(A)). The jury also found the defendant guilty of the Felony Murder (R.C. §2929.04(A)(7)), Course of Conduct (R.C. §2929.04(A)(5)), and Sexual Motivation Specifications (R.C. §2941.147) accompanying each count of Aggravated Murder.[3] The jury also found that the defendant purposely attempted to kill Latundra Billups, Shawn Morris and Gladys Wade.

{¶2} The other charges on which the jury found the defendant guilty were: Kidnapping in Counts 3,4,9,10,15,16,21,22, 27,28,33,34,45,46,51,52,57,58,63,64,67,68,74,75,80 and 81 (R.C. §2905.01(A)(4) and R.C. §2905.01(A)(3)); Abuse of a Corpse in Counts 5,11,17,23,29,35,41,47,53,59,and 65 (R.C. §2927.01(B); Tampering with Evidence in Counts 6,12,18,24,30,36,42,48,54,60, and 66 (R.C. §2921.12); Attempted Murder in Counts 69,76 and 82 (R.C. §2923.02/2903.02(A)); Felonious Assault in Counts 70,71,77 and 83 (R.C. §2903.11(A)(1) and (2)); Rape in Counts 72, 73,78 and 79 (R.C. §2907.02(A)(2)); and Attempted Rape in Count 84 (R.C. §2923.02/2907.02(A)(2)).[4]

{¶3} On July 27, 2011, after a bifurcated trial to the Court on remaining specifications for Repeat Violent Offender and Sexually Violent Offender, and Notice of Prior Conviction, the Court found the defendant guilty on all counts. Having been advised of his rights to an

3. With the exception of Count 37, where the Court dismissed the Sexual Motivation Specifications pursuant to defendant's Crim. R. 29 motion.

4. For sentencing purposes, the Court merged Kidnapping Counts, 3,4,9,10,15,16,21,22,27,28,33,34, 45,46,51,52,57,58,63 and 64, into corresponding Aggravated Murder charges, 1,7,13,19,25,31,37,43,49,55 and 61, finding them to be allied offenses of similar import. For the same reason, the Court merged the Kidnapping charges in Counts 67 and 68, and the Felonious Assault charges in Counts 70 and 71 with the charge of Attempted Murder in Count 69. The Court also merged the Kidnapping charge in Count 75 with the Kidnapping charge in Count 74; the Felonious Assault in Count 77 with the Attempted Murder in Count 76; the Kidnapping in Count 81 with the Kidnapping in Count 80; and the Felonious Assault in Count 83 with the Attempted Murder in Count 82.

appeal, pre-sentence investigation, mental health examination and right to make an unsworn statement, the case then proceeded to the sentencing phase before the jury on August 1, 2011. In the sentencing phase, the jury was instructed to consider only two aggravating circumstances: felony murder and course of conduct[5] for each victim of Aggravated Murder and to weigh those aggravating circumstances against the mitigating factors presented during the case.

{¶4} During the trial phase, The State submitted evidence regarding the disappearance and murder of eleven women in the Mt. Pleasant neighborhood of Cleveland (and the attempted murders of three other women). The women were all African American and were involved in varying degrees of drug and alcohol abuse and/or addiction. Most had children. Some were married or were in relationships. In accordance with the jury's verdict, the Aggravating Circumstances of Felony Murder and Course of Conduct were established by proof beyond a reasonable doubt.

{¶5} During the Sentencing Phase, the State re-introduced evidence regarding the Aggravating Circumstances that it introduced during the Trial Phase and then rested. The defense called 25 witnesses to the stand, including the defendant who gave an unsworn statement elicited by counsel in question and answer format. The State called two witnesses in rebuttal. The parties submitted more than 500 exhibits to the jury at the close of all the evidence. The case was given to the jury for deliberation on August 9, 2011.

5. The Felony Murder (1-2) and Course of Conduct (3-15) Specifications for each count of Aggravated Murder in the Indictment were merged for the jury's consideration during the Sentencing phase, so only one Aggravating Circumstance of Felony Murder and one Aggravating Circumstance of Course of Conduct applied for each of the 11 victims.

{¶6} On August 10, 2011, the jury found that the Aggravating Circumstances of the Felony Murder and Course of Conduct Specifications outweighed the mitigating factors by proof beyond a reasonable doubt and returned a verdict recommending that the sentence of death be imposed upon Anthony Sowell. Pursuant to R.C. § 2929.03(F) this Court must conduct an independent review of the facts and weigh the Aggravating Circumstances of Felony Murder and Course of Conduct against the mitigating factors from all the evidence in the case.

AGGRAVATING CIRCUMSTANCES

{¶7} The aggravating circumstances to be weighed against the mitigating factors are:

> THAT THE OFFENSE OF AGGRAVATED MURDER WAS COMMITTED WHILE THE OFFENDER WAS COMMITTING OR ATTEMPTING TO COMMIT OR FLEEING IMMEDIATELY AFTER COMMITTING OR ATTEMPTING TO COMMIT KIDNAPPING AND EITHER THE OFFENDER WAS THE PRINCIPLE OFFENDER IN THE COMMISSION OF THE AGGRAVATED MURDER OR, IF NOT THE PRINCIPLE OFFENDER, COMMITTED THE AGGRAVATED MURDER WITH PRIOR CALCULATION AND DESIGN; AND
>
> THAT THE OFFENSE WAS PART OF A COURSE OF CONDUCT INVOLVING THE PURPOSEFUL KILLING OR ATTEMPT TO KILL TWO OR MORE PERSONS BY THE DEFENDANT

{¶8} Regarding the Aggravating Circumstances, the State's evidence, introduced during the Trial phase and re-introduced in the Mitigation Phase, proved, beyond a reasonable doubt, that the defendant, Anthony Sowell, purposefully caused the death of 11 women over approximately two and one-half years. The State's evidence also established that, except for one victim (Leshanda Long), the defendant committed each Aggravated Murder while committing or attempting to commit Kidnapping. The testimony of Cuyahoga County Medical Examiners Dr. Krista Pekarski, Dr. Frank Miller and Dr. Elizabeth Balraj clearly

established that the deaths of all 11 victims were homicides and all but three[6] were caused by asphyxia due to cervical compression. Trace Evidence Analysts Kristopher Kern and Curtiss Jones testified as to the various ligatures and bindings found around the bodies of nine[7] of the eleven victims, establishing the restraint element of Kidnapping by direct evidence. The Aggravating Circumstances, proven beyond a reasonable doubt, and the nature and circumstances of those Aggravating Circumstances are significant factors and are entitled to great weight in the process of weighing them against factors in Mitigation.

MITIGATING FACTORS

{¶9} Mitigating factors considered by the Court, include the evidence presented at trial, arguments of counsel, the statement of the defendant, the relevant factors identified in O.R.C. § 2929.04(B), and any and all other information and reports that are relevant to the nature and circumstances surrounding the Aggravating Circumstance, including, but not limited to, the history, character, and background of the defendant.

{¶10} During the Mitigation Phase, and in addition to various witnesses testifying as to his history, character and background, defendant introduced the testimony of Dr. Dale Watson, a neuro-psychologist, and Dr. George Woods, a neuro-psychiatrist. Defendant's experts focused their testimony on the specific mitigating factor referenced in R.C. 2929.04(B)(3), i.e., whether at the time of the offenses, the defendant, due to mental disease or defect, lacked substantial capacity to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law. Defendant also offered in mitigation, the testimony of George Bansley, a military records expert and former Marine, to describe

6 The deaths of Leshanda Long, Kim Smith and Diane Turner were all due to homicidal violence.
7 There were no ligatures or restraints found on the remains of Leshanda Long or Diane Turner.

the defendant's performance and career in the United States Marine Corps. Defendant's mitigation expert, Lori James-Townes, also testified about the defendant's social history and background. As will be discussed below, defendant's mitigation evidence is entitled to some weight in determining whether the Aggravating Circumstances outweigh the Mitigating factors.

NATURE AND CIRCUMSTANCES OF THE OFFENSE

{¶11} The Court reviews the circumstances surrounding each of the Aggravated Murders of the eleven victims solely to determine the presence of any mitigating circumstances. The Aggravated Murder of a particular victim is not considered part of the Aggravating Circumstances for that victim. Therefore, the Court does not give individual Aggravated Murders any weight against mitigating factors presented in the case.

{¶12} The first person to disappear in this case was Crystal Dozier, a 35 year-old mother of seven children who struggled with drug addiction. She was last heard from on May 17, 2007. The body of Crystal Dozier was found almost two and one-half years later buried in a shallow grave in the backyard of 12205 Imperial Ave. Testimony from the Cuyahoga County Coroner and members of the Coroner's Trace Evidence Department described how the body was elaborately wrapped in multiple layers of heavy duty plastic sheets which were held in place with duct tape and electric cable. There was a cloth fabric ligature wrapped tightly around the neck. The hands were bound at the wrists and held above the head. The ankles were bound with wire cables. The body was nude from the waist down. The Coroner determined the cause of death as asphyxia by cervical compression due to ligature strangulation. Crystal Dozier's death was ruled a homicide.

{¶13} In 2007, Tishana Culver lived on Imperial Avenue about five houses down from defendant's house at 12205 Imperial. She was last seen sometime in March 2008. She had a problem with addiction to crack cocaine and had been incarcerated as a result of a Domestic Violence conviction. She was 29 years old and had five children. She also had mental health issues. At the time of her disappearance, she was in a relationship with Carl Johnson and family members believed she was in Akron with Mr. Johnson during part of the time she was missing. Her body was found in the crawl space next to the south bedroom of the third floor of 12205 Imperial Avenue on October 30, 2009. The body was wrapped in multiple black plastic bags secured with gray tape in the center and was covered with dirt. The body was clothed in a tee shirt, dress, pants and socks. Autopsy revealed a knotted rope binding the wrists and a fractured hyoid bone in the neck. The Coroner ruled the death a homicide caused by asphyxia due to strangulation.

{¶14} Leshanda Long disappeared in the summer of 2008. She was 25 years old and was a mother of three children who battled with drugs most of her adult life. She had been in and out of the Juvenile Court system and had been incarcerated before. She lived on E. 123rd St., near Kinsman. She was 4 foot, 7 inches tall and weighed about 110 lbs. Her body was never found. The only remains of Leshanda Long that were recovered was her skull, which was found in a bucket in the basement of 12205 Imperial Ave. The cause of death was determined to be homicidal violence.

{¶15} Michelle Mason was battling a drug problem at the time she went missing in October of 2008. At that time, she was 39 years old and was living on E. 121st St. and Buckeye, in the vicinity of 12205 Imperial Ave. She had two children, had a prior criminal record, had

been diagnosed with AIDS and was bi-polar. Her body was found buried in a shallow grave in the backyard of 12205 imperial Ave. The body was wrapped in two black plastic bags, a black comforter, a discolored orange blanket, and additional black plastic bags with grey tape in the center. There was a cloth ligature secured with a loop and a knot around the neck and the body was nude from the waist down. The Coroner ruled Michelle Mason's death a homicide with the cause of death asphyxia due to cervical compression caused by ligature strangulation.

{¶16} Tonia Carmichael was a mother of three children who became addicted to crack cocaine at approximately age 42. She frequented the area of 116th and Kinsman for drugs and the last time she was seen alive was November 10, 2008. She was 52 at that time. Her body was found in a shallow grave next to a bush in the backyard of 12205 Imperial Ave. It was wrapped in clear, plastic material. The body was nude. An electrical cord, believed to be the charging cord for a cell phone or camera, was wrapped tightly around the neck. The wrists were tied behind the body with a cloth ligature. The death was ruled a homicide and the cause of death was asphyxia by cervical compression due to ligature strangulation.

{¶17} Gladys Wade testified that on December 8, 2008, she was visiting her sister at 149th St. and Milverton, but left the house after an argument. She was walking towards 116th and Kinsman to catch a bus when she stopped at a beverage store at E.123rd St. and Imperial Ave. As she left the store, a person she identified as the defendant said Merry Christmas to her and began to follow her, attempting to strike up a conversation. She was continuing her walk towards the bus stop when the person trying to strike up a conversation, the defendant, grabbed her from behind and began choking her as he dragged her up the

driveway and into 12205 Imperial Ave. Ms. Wade testified that she passed out due to the choking and woke up on the third floor of the defendant's house in a room with a Christmas tree. She began to scream and the defendant then punched her and said "bitch, take your clothes off!" A struggle ensued between Ms. Wade and the defendant, which eventually led to their tumbling down the hallway and into a glass door which shattered, cutting Ms. Wade's thumb. Ms. Wade escaped from the defendant's house are ran across the street to a nearby store to have someone call 911, the store owner told her to make the call herself from a payphone outside. However, the outside payphone had been removed from its station. Defendant followed her to the store and threw her the sweater that she had left at his house. Ms. Wade then left the area and flagged down a Cleveland Police cruiser. She explained to officers what had happened and they took her to the hospital to attend to her injured thumb. Police investigated and collected evidence from 12205 Imperial corroborating Ms. Wade's story. They then placed defendant under arrest and took him into custody. However, defendant was later released and with no charges filed because a prosecutor for the city of Cleveland found there to be no credible evidence.

{¶18} Kim Smith disappeared in January of 2009. She was almost 44 years old. She did not have any children and had a substance abuse problem since her last year of high school. Her drug of choice was crack cocaine and it led to involvement with the criminal justice system. She was last seen on January 17, 2009 when she went shopping with her sister, just before her birthday on January 20th. Her body was found in the backyard of 12205 Imperial Ave., buried in a shallow grave and wrapped in two sheets of translucent plastic and three black plastic bags. No ligatures were found around the neck, but the body had fabric twine bindings around the wrists, tied in front of the body, and the ankles. The

body was nude from the waist down. The death was ruled a homicide and the cause of death was homicidal violence, type undetermined.

{¶19} Amelda Hunter was last seen sometime during the middle of April 2009. She had four children and, like the other victims, had an addiction to crack cocaine. She had been involved with attempts at drug treatment and was 46 years old at the time of her disappearance. Testimony from Ms. Hunter's sister revealed that Ms. Hunter had lived on Imperial Avenue for a time and that she was familiar with the defendant and had gone to his house in 2007 to buy drugs. Amelda Hunter's body was found in a shallow grave in the backyard of 12205 Imperial Avenue wrapped in multiple, heavy duty, plastic garbage bags. There was a ligature, in the form of a shoulder strap from a handbag or carrying case wrapped tightly around the neck. The body was nude from the waist down. The death was ruled a homicide and the cause of death was asphyxia by cervical compression due to ligature strangulation.

{¶20} Nancy Cobbs also had a drug problem. She lived on Cleveland's west side, but would frequent the area of E. 116th St. and Kinsman in order to get drugs. She was last seen by her daughter, Audrey Williams, on April 24, 2009. Her body was found wrapped inside six black plastic bags and a white blanket and was lying on the floor of the south bedroom on the third floor of 12205 Imperial Ave. The body was nude from the waist up and had a 36-inch long shoelace wrapped two times around the neck. There was also a sock tied around the neck. The wrists were bound by an 18-inch long shoestring. The death was ruled a homicide, with the cause of death asphyxia by cervical compression due to ligature strangulation.

{¶21} Janice Webb was 48 years old at the time of her death. She struggled with drugs for many years of her life and was in and out of drug treatment programs. She was last seen by her son Larmarr on June 21, 2009. According to her sister, Joanne Moore, Ms. Webb had occasion to be in the Mt. Pleasant area of Cleveland, as she visited her 93 year-old grandmother, who lived at E. 93rd St. and Kinsman, nearly every day. Janice Webb's body was found in the basement of 12205 Imperial Ave. under a pile of dirt located under the basement steps. The body was found in a plastic bag, nude, with a belt tied tightly around the neck, wrists bound in front by shoelaces and a shirt tied around the mouth as a gag. The Coroner ruled the death a homicide and the cause of death asphyxia by cervical compression due to ligature strangulation.

{¶22} Telecia Fortson was 31 years old and was the mother of three children. She also had a long-term addiction to crack cocaine. She disappeared in June of 2009 and was last seen by her daughter on June 3, 2009. Her body was found lying on the floor in the south bedroom of the third floor of 12205 Imperial Ave. She was nude from the waist down and there was a shirt tied around her neck as a ligature. Her death was ruled homicide by the Coroner and the cause of death was asphyxia by cervical compression due to ligature strangulation.

{¶23} Diane Turner was 38 years old and was the mother to Denise Martin. Diane Turner was addicted to drugs and, according to James Martin, the father of Denise Martin, Ms. Turner's problems with drugs began in 2002, when she lost custody of her child due to seizures she (Ms. Turner) suffered. Ms. Turner worked part-time at Dailey's, a Jamaican restaurant in the Mt. Pleasant area. She was last seen in late August, early September

2009. Her body was found lying on the floor of the south bedroom on the third floor of 12205 Imperial Ave., nude from the waist down and with a black, plastic bag around her legs. There were two robes and a pair of black pants laying over the body. The Coroner ruled her death a result of homicidal violence of undetermined means.

{¶24} Latundra Billups testified that she moved to Imperial Avenue in 2007 and knew the defendant from the neighborhood. She also testified that she would smoke crack cocaine with the defendant and his ex-girlfriend, Lori Frazier. On September 22, 2009, she went back to the house at 12205 Imperial Ave. to drink and get high with defendant. They went to the second floor of the house and, after smoking and drinking, defendant told her to stand up and turn around. Ms. Billups testified that the defendant then put his hand on the back of her neck, kind of forceful, and she turned around and pushed him. She testified that, at that point, he hit her hard on the side of her face and told her to take off her clothes. She took off her pants and he forced her to lie down on a blanket spread on the floor. Defendant performed oral sex on her. Ms. Billups testified that she was crying. Defendant then made her turn onto her stomach and he penetrated her vagina with his penis from behind. As he was penetrating her, he put an extension cord around her neck and began to squeeze it until she could not breathe. She tried to struggle, but eventually passed out. When she woke up she testified that she felt wet and smelled feces in the room. She said that she started looking for her pants and shoes. Defendant told her that she wasn't going anywhere. She testified that the defendant looked shocked that she woke up. He then told her that he was going to kill her and then himself because he knew he was going to jail. Ms. Billups told him that he wasn't going to jail and turned the focus on her ripped sweater. He told her to come back tomorrow and that he would pay her for the

sweater and that they could get high and drunk again together. Ms. Billups sought treatment at the hospital for injuries to her neck and then reported it to the police. After delays due to poor communication between Ms. Billups and police, a warrant was obtained for the arrest of Anthony Sowell. While attempting to serve this warrant on October 29, 2009, police began the discovery of bodies at 12205 Imperial Ave.

{¶25} Shawn Morris testified that after overcoming a drug problem, which had been an issue for most of her life, she relapsed on October 19, 2009, when she stayed out all night drinking and looking to get high. She met the defendant at a bus stop near his house on Imperial Ave. After having a conversation with him, she accompanied the defendant back to his house on October 20th. After drinking and smoking crack cocaine with defendant for several hours, Ms. Morris left to return to her family. A short distance from defendant's house, she realized that she had left her I.D. in the defendant's bedroom, so she returned to the house, called up to the defendant, expecting him to just toss her I.D. out to her from the window. However, he told her to come get it herself. Defendant let her in the house and was behind her as she began walking up the stairs to the third floor. Ms. Morris testified that the defendant then grabbed her from behind, put her in a military chokehold and dragged her upstairs to his bedroom on the third floor. Once in the bedroom, defendant told her to take off her clothes and get on the bed. He told her to lay on her stomach and then proceeded to violently rape her. While he was raping her, the defendant was talking about how he hated you bitches. He said: "look at you, you've got a husband at home and you out here in the streets." According to Ms. Morris, defendant was saying "that's why I hate bitches." Ms. Morris testified that defendant tried to penetrate her anus with his penis and she screamed. Defendant then started closing windows. When he left the room to

close other windows, Ms. Morris began to climb out of the bedroom window to escape, believing she could hang drop and perhaps only break a leg or twist an ankle. When he came back into the room and saw Ms. Morris hanging from the windowsill, defendant tried to pull her back into the house. However, when the defendant realized that he could not pull Ms. Morris back in, he shoved her down as hard as he could. Ms. Morris fell to the ground below and broke both hands, eight ribs, fractured her skull and experienced an aneurysm. The fall also rendered her unconscious. Testimony of other witnesses at the scene described how the defendant tried to move Ms. Morris despite their warnings that she would be injured if moved. Defendant eventually moved Ms. Morris back into the house and dropped her on the floor when firefighters and EMS arrived. Defendant rode with Ms. Morris in the ambulance to the hospital and told hospital and EMS personnel that he was her husband. Ms. Morris told hospital personnel that she was hit by a car. She did not report the incident to police because the defendant had told her that he had people that would come after her and kill her.

{¶26} Following up on the rape allegations by Latundra Billups against the defendant, members of the Cleveland Police SWAT unit entered the home at 12205 Imperial Avenue on October 29, 2009, searching for Anthony Sowell. Instead they found two decomposing bodies in the south bedroom of the third floor of the house. The bodies were later identified to be Telecia Fortson and Diane Turner. On October, 31, 2009, in response to a tip from a citizen concerning the whereabouts of Anthony Sowell, the defendant was arrested by Cleveland Police while walking down Mt. Auburn Avenue, a few blocks from Imperial Ave. At first the defendant gave police a false name and indicated that he had been stopped the day before and cleared. However, when it was suggested that police would run his

fingerprints through their computer system, defendant admitted he was Anthony Sowell, the person they were looking for.

{¶27} During an extensive interrogation by Cleveland Police Homicide Detectives, the defendant could not identify any of the six bodies that had been recovered from his house at that time. He described dreams where he was "hurting" people with his hands, and that he choked them. According to the defendant, he did this in his dreams "to punish them." However, he provided few details of the murders or explanation as to how the bodies that were recovered ended up in the places and in the condition in which they were found. Defendant blamed much of his problems on his former girl friend, Lori Frazier, who broke up with him in 2007. He told detectives that he had a breakdown after that. He also indicated hostility towards the victims, stating that: "they had kids and were out on the street." He also referred to them as "bad ones" and admitted that he had sex with all of them.

{¶28} There was evidence from the nature and circumstances of the Aggravated Circumstances that lends support to defendant's mitigation theory. Dr. George Woods, Defendant's expert neuro-psychiatrist, testified that defendant suffered from Obsessive-Compulsive Disorder (OCD), severe, chronic, with sexual obsession; Post Traumatic Stress Disorder (PTSD); Psychosis, Not Otherwise Specified (NOS); Cognitive Disorder – NOS; and Cocaine Dependence and Cannabis Abuse. There was also testimony from family members of the defendant and, most notably, his cellmate for ten years, Roosevelt Lloyd, that defendant was very protective about his "stuff" and that he would organize all of his belongings and constantly count them to assure himself that nothing was missing.

Evidence from the crime scene, autopsy and trace evidence reports regarding some of the elaborate wrappings surrounding the bodies uncovered from Imperial Avenue goes towards the argument in mitigation that defendant suffered from OCD. Also, the fact that all but one of the eleven victims were either nude or partially clothed, in addition to the more graphic testimony of Gladys Wade, Latundra Billups and Shawn Morris, is evidence in support of Dr. Woods' diagnosis of the defendant as suffering from a sexual obsession. The look in the defendant's eyes that preceded the attacks, as described by some of the surviving victims, also supports defendant's theory of Psychosis, or defendant's detachment from reality.

{¶29} Further support of Dr. Woods' diagnosis can be developed from the testimony of Debbie Madison, a neighbor of the defendant. Mrs. Madison testified that when police were discovering the bodies at 12205 Imperial, she thought one of them was the defendant, Anthony Sowell. She went to tell defendant's sister, Tressa Garrison, who lived nearby. Ms. Madison found the defendant at his sister's house playing video games. She told defendant that the police had found two bodies at his house. In response, defendant said: "Yeah, I know. That girl made me do it." This statement offers some support to the defense mitigation theory that the defendant was emotionally devastated by his break up with Lori Frazier in 2007 and that event, coupled with his heart attack that same year may have caused changes to his brain that contributed to psychosis and a cognitive disorder that left him unable to control his compulsions.

{¶30} The State introduced the rebuttal testimony of Dr. Diana Goldstein and Dr. James Knoll in opposition to much of the testimony of defendant's expert witnesses. Dr. Goldstein

differed in her interpretation of the results of neuropsychological testing performed by Dr. Dale Watson. Dr. Goldstein concluded that: malingering of cognitive impairment can not be ruled out; that defendant is not suffering from any significant cognitive impairment; and that his 2007 heart attack did not lead to any significant neurocognitive change that would account for changes in personality or lead to illegal conduct. Dr. Knoll disagreed with Dr. Woods' conclusion that the defendant did not have the capacity to conform his behavior to the law or that his conduct was uncontrollable and found Dr. Wood's diagnosis on that issue to be unsubstantiated. Dr. Knoll noted that brain dysfunction is not associated with the type of complex criminal behavior that took place in this case and that the level of planning and decisions made by the defendant in order to carry out these crimes was evidence of a planned rather than an impulsive act. Dr. Knoll testified concerning his research regarding serial killers and likened the defendant's behavior to that of individuals who engage in repeated criminal behavior and who are classified as suffering from Anti-Social Personality Disorder. Based on this testimony, the Court finds that the mitigating factors evident in the nature and circumstances of the Aggravated Circumstances are counter-balanced by the evidence in opposition and therefore, affords them no weight.

HISTORY, CHARACTER AND BACKGROUND OF ANTHONY SOWELL

{¶31} In the Sentencing Phase, defendant introduced the testimony of family members, schoolteachers, employment counselors/social workers, employers, jail personnel, a military records expert, and defendant's mitigation specialist. This testimony established that defendant had a troubled, unstable upbringing characterized by abuse, neglect and sexual abuse.

{¶32} Defendant was born in Cleveland, Ohio on August 19, 1959 to Thomas Sowell and Claudia Garrison. Thomas Sowell was married to another woman at the time. Thomas Sowell is described as a womanizer who also suffered from alcoholism. Thomas Sowell died on March 11, 2003. Claudia Garrison was primarily responsible for defendant during his childhood. She worked at a local steel mill, as well as other odd jobs. After the death of Claudia's daughter, Patricia Davis, Claudia assumed custody of Patricia's seven children and they moved into Claudia Garrison's home on Page Avenue in Cleveland, along with her other children: Anthony (defendant), Tressa, and Owen.

{¶33} Defendant's sister Tressa described what it was like growing up in the family home on Page Avenue, once the Davis children moved in. She said that her mother was working most of the time, so her grandmother, Irene Justice, handled much of the disciplining of children. According to Tressa, Irene Justice would "whoop" the Davis kids with a belt, extension cord, "switch", or cane. Some of the beatings were severe and would draw blood. Most of the beatings were of the Davis children, although both Tressa and the defendant could recall one incident where they were beaten. Tressa also testified that she ran away from home because she was neglected by her mother.

{¶34} Leona Davis testified that both she and her twin sister Ramona were beaten by both Irene Justice and Claudia Garrison at the Page Avenue home. She testified that they would be told to strip down to their underwear and were tied to the banister and then beaten with extension cords or "switches". She said that they were beaten almost every day and that the Sowell children: Anthony, Tressa and Owen, were not beaten and that they watched from other rooms. Leona testified that she continued to run away from the Page Avenue

home, but would be returned to the home by police. She began to set fires in order to escape the home and finally was incarcerated at a juvenile facility. She reported being raped by the defendant on more than one occasion when he was 12 and she was approximately 10 years old. She also reported that she was raped by the defendant's brother Owen, who she referred to as "Junior".

{¶35} Defendant's Mitigation Expert, Dr. Lori James-Townes, reported that there were incidents of defendant being sexually abused in the Page Avenue home by Robin, Patricia Davis' oldest son, as well as Jesse Hatcher's daughter, Princess. Defendant also reported being sexually abused by the mother of his girlfriend, Valencia. With respect to defendant's schooling, Ms. James-Townes reports that defendant was a below-average student with little or no incidents and a great attendance record. However, he dropped out of school to join the Marines in 1977. According to Dr. James-Townes, and the defendant during his unsworn statement, he joined the Marines to get away from his mother. Defendant said that he chose the Marines because his mother said he wasn't capable of getting into the Army. Defendant did well in the military. He graduated at the top of his class for basic training and was promoted to the rank of Private First Class. Defendant received further promotions during a nearly eight-year career in the Marines. He was honorably discharged in 1985 with the rank of Corporal.

{¶36} While serving in the Marines, defendant met Kim Lawson, a fellow Marine. They began dating and were married in September 1981. They eventually separated and Kim later died in 1998 as a result of an accident. After being discharged from the Marines, defendant moved back into his mother's home on Page Avenue with Twyla Austin, the

mother of his daughter. Ms. Austin found out she was pregnant with defendant's child after he entered the Marines. The child was born in September of 1978.

{¶37} In July of 1989, defendant was arrested at the Page Avenue house on Rape charges. Police responded to a report of a woman, naked on the roof of the house calling for help. When they arrived on scene, police found a woman with her hands tied behind her back with a necktie. She accused defendant of raping her. Defendant pled to a reduced charge of Attempted Rape and served a prison term of 15 years. Defendant adjusted to prison life and, according to his cellmate of 10 year, Roosevelt Lloyd, who testified that defendant was so loved by the staff at the Grafton Correctional Institution that they hugged him upon his release. Mr. Lloyd also described defendant as going into "military mode" when he was threatened. That he would get a glare in his eyes, would rub his face and play with his eyebrows as he was deciding: "should I attack or not attack?" He said that defendant's eyes would be in a daze when he was in this state.

{¶38} After being released from prison, defendant sought assistance in obtaining a job and used the services of Networks for Success and Towards Employment. He obtained blue-collar jobs at North American Packaging and then Custom Rubber on E. 55th St. in Cleveland. He was also able to obtain seasonal work at Jacobs Field where he worked in the kitchen during Cleveland Indians games. In part, due to a heart attack he suffered in February 2007, defendant could no longer be employed at Custom Rubber. Thereafter, he had difficulty finding work and started "scraping" (selling scrap metal) to make money.

{¶39} As described above, the evidence of defendant's history, character and background is worthy of some weight in mitigation. During the Sentencing Phase, defendant

established that he had a somewhat dysfunctional background and was raised in a family structure that was often violent, non-nurturing and abusive at times. Predictably, this formula led to defendant's problems with substance abuse, relationships and eventual criminal behavior. However, the weight given to this mitigating element is not sufficient on its own to overcome the Aggravating Circumstance as there was also testimony concerning aspects of the defendant's family life that were normal. Defendant even stated in his unsworn statement, that despite all their faults, he loved his mother and his father and he loved his sisters. By all reports, defendant loved the daughter he fathered with Twyla Austin and was able to live in a committed relationship - his marriage to Kim Lawson. He was able to succeed and even excel in the U.S. Marines. He was able to hold down jobs after being released from prison, and he had a somewhat normal relationship with Lori Frazier (the caveat being that the relationship involved the use of drugs). In addition, a majority of the children who were subject to the same, or worse environment that defendant grew up in, did not develop the same propensity towards violence as the defendant. Therefore, the weight to be given to mitigating factors found within the nature, background and history of the defendant is minimal.

The Court next considers specific, relevant mitigating factors listed in R.C. 2929.04(B).

R.C. 2929.04(B)(3) - WHETHER, AT THE TIME OF COMMITTING THE OFFENSE, THE OFFENDER, BECAUSE OF A MENTAL DISEASE OR DEFECT, LACKED SUBSTANTIAL CAPACITY TO APPRECIATE THE CRIMINALITY OF THE OFFENDER'S CONDUCT OR TO CONFORM THE OFFENDER'S CONDUCT TO THE REQUIREMENTS OF THE LAW

{¶40} Dr. George Woods testified that the defendant suffered from: Obsessive-Compulsive Disorder – severe, chronic (with sexual obsession)[8]; Post-Traumatic Stress Disorder – type I; Psychosis (Not Otherwise Specified); and Cognitive Disorder (NOS). According to Dr. Woods, defendant's symptoms of depression were augmented by the heart attack he suffered in February 2007, which also impaired his cognitive functioning and created the psychosis he suffers from today. Dr. Woods testified that, since his heart attack and his break up with Lori Frazier, defendant is no longer capable of regulating his compulsions, and his compulsions or actions are driven by his obsessions. The most significant obsession in this regard is the defendant's sexual obsession.

{¶41} However accurate that diagnosis might be, it does not explain defendant's propensity for murder. Defendant admitted to having sex with all of his victims. Dr. Woods diagnosis would explain that admission. But Dr. Woods diagnosis fails to provide an explanation as to why defendant's compulsion caused him to murder these women after having sex with them. As pointed out by Dr. Knoll during his testimony, there was no evidence of any significant cognitive dysfunction or mental defect in the mind of the defendant that would explain why he had to kill. Hatred for women was a theory introduced

8. Dr. Woods admitted that there is no recognized sexual component to his diagnosis of OCD, but added it to his diagnosis because he thought it was relevant.

by the State during Dr. Woods cross-examination, but he would not adopt that as "the" reason for the defendant's action. Without any significant evidence that a mental disease or defect caused him to be unable to conform his conduct to the law, in other words, not to kill people, the Court gives some, but not significant weight to defendant's evidence addressed to this factor in mitigation.

R.C. 2929.04(B)(7) - ANY OTHER FACTORS THAT ARE RELEVANT TO THE ISSUE OF WHETHER THE OFFENDER SHOULD BE SENTENCED TO DEATH

{¶42} Under R.C. 2929.04(B)(7), the Court may consider any other evidence not specifically set forth above that would be such as to justify mitigating a sentence of death to a life alternative. The defendant submitted evidence of defendant's military record for consideration under this factor. The defendant also indicated that his mental capacity, as described by Dr. Watson and Dr. Woods should also be considered under this factor. Defendant failed to specifically identify other factors that would merit consideration under 2929.04(B)(7). However, the Court can infer from the evidence presented that defendant is asserting the following as factors in mitigation: the love and support of defendant's family; his academic record; his work history; his ability to function as a productive person in a structured environment such as prison; and his remorse for his crimes.

{¶43} The Court considers defendant's academic record as a child in the City of Cleveland and City of East Cleveland schools as a factor in mitigation. Defendant had a near perfect attendance record, but struggled to keep his grades at a "C" level. There is no indication that defendant needed special education classes, so the inference can be made that he was an average to below-average student, who may have tried but did not accomplish much from an academic perspective. According to the report by defendant's mitigation

expert, defendant cherished his time in school because it got him out of his home environment, but he did a lot of day dreaming and doodling in class instead of applying himself. This caused him to be reprimanded by teachers. There is no dispute that defendant was a "below-average" student. However, given defendant's own lack of effort, it is difficult to find any mitigation evidence in defendant's educational record and the Court affords it no weight.

{¶44} The Court next considers the love and support of defendant's family as a mitigating factor. There was testimony by Tressa Garrison, Alan Sowell, Twyla Austin, and Roosevelt Lloyd in support of defendant. Roosevelt Lloyd is not a family member, but was, and still is according to him, defendant's best friend. Their testimony regarding the good that they saw in the defendant over the course of his life is entitled to some weight and the Court will acknowledge the love and support of family as a mitigating factor.

{¶45} Defendant raises his military record in the U.S. Marines as a mitigating factor. Testimony by Walter Bansley, defendant's military records expert and a former Marine himself, testified that defendant was at the top of his class in basic training and was promoted to the level of Private First Class, a very high distinction for a Marine recruit. Defendant also was promoted to the rank of Lance Corporal, Corporal and ultimately Sergeant. Defendant served a total of nearly eight years in the Marines before being honorably discharged in 1985. One of the few negative marks found in defendant's military record was a disciplinary proceeding where he suffered a reduction in rank after an altercation with a ranking officer. However, defendant's exemplary military record is entitled to some weight in mitigation and the Court weighs it accordingly.

{¶46} Defendant's ability to function as a productive person while in prison is given little weight in mitigation. The institutional record produced by defendant during the Sentencing Phase indicates that the defendant adjusted to prison during a previous 15-year incarceration for attempted rape. However, it is equally clear that subsequent to his release, defendant has engaged in a pattern of offenses against women culminating in the serial killings of eleven women and attack on three others. It appears that prison has had little effect on defendant's future conduct. Therefore, little to no weight is given to this factor.

{¶47} The Court considered defendant's record as a productive employee as a mitigating factor. Defendant worked for about three months at North American Packaging and then approximately a year and one-half with Custom Rubber before a heart attack caused him to be released in July 2007. He also worked as a cook for the Cleveland Indians at Jacobs Field for about three months. Despite an employment record demonstrating that defendant was a good worker, the record also indicates that he never held a job longer than his time at Custom Rubber. After his heart attack there was no indication that he was disabled to the point where he could no longer work. In fact, he did work after his heart attack in 2007, but his employment history was spotty at best. It appeared as if defendant just "gave up" on working to find gainful employment after Custom Rubber. Defendant's employment record is entitled to some weight, but given the totality of his work history, that weight is minimal.

{¶48} The Court also considers the evidence presented, but not accepted in support of the 2929.04(B)(3) factor discussed above. That is the testimony of Dr. Dale Watson regarding

evidence of brain dysfunction or impairment in the defendant's parietal lobe causing a delay in processing speed and suggesting the further possibility of a psychological disturbance. However, even as a 2929.04(B)(7) factor, Dr. Watson's opinion is still subject to the contrary opinion of Dr. Diana Goldstein. Dr. Goldstein reviewed the same data as Dr. Watson and did not find any evidence of significant brain dysfunction or link between a suspected personality disorder and defendant's 2007 heart attack. Also considered as a (B)(7) factor, are Dr. Woods' findings and conclusions with respect to the diagnoses of OCD, PTSD and Psychosis NOS. These findings were severely questioned by Dr. James Knoll and found to be without proper foundation or support. Therefore the factors concerning defendant's mental health, which are again considered under 2929.04(B)(7) are given no weight as they were previously afforded some weight under 2929.04(B)(3).

{¶49} The Court next considers remorse as a mitigating factor. The Court gives defendant's demonstration of remorse no weight. This is due to the fact that, even though he said he was sorry – sorry from the bottom of his heart, he failed to take responsibility for his crimes by adding " I don't know what happened!" "I can't explain it." If defendant was truly remorseful, he would accept responsibility for his actions. It should also be noted that, when the bodies were being discovered from his house on 12205 Imperial, the defendant was playing video games at his sister's house. When notified of the discovery by a neighbor, defendant, knowing full well what was in the house at 12205 Imperial, avoided the scene, was preparing to leave the area and gave police a false name when arrested. Defendant's cooperation with police during a tortured 12-hour interview session over the course of two days was minimal. He lied to police when questioned about his attack on Latundra Billups. He told police that she wanted to whip him with an extension cord, then

when confronted with the fact of her allegation that he used an extension cord to strangle her, he denied any knowledge of an extension cord. At trial, defendant never changed his expression when photograph after photograph of the crime scene and the decomposed bodies of eleven women were hauled out from in and around his house. However, when one of his family members or his ex-girlfriend, Lori Frazier, testified, defendant's affect changed and he showed emotion, both happiness (laughter) and sadness (tears) during their testimony. The testimony and diagnoses of Dr. Woods might explain some of what the court observed, i.e. defendant's psychosis or "disassociation" with the real world. But Dr. Knoll's explanation is equally plausible - that is, "disassociative amnesia" - or the inability to recall traumatic incidents after the fact. Dr. Knoll also suggested that the defendant has no capacity for remorse. In other words, he's a psychopath – a serial killer. That diagnosis is subject to debate, but what's clear is that it was too easy for defendant to turn off the world when it called for him to feel for others, and then turn it back on when the focus was on him. The Court therefore gives no weight to defendant's expression of remorse.

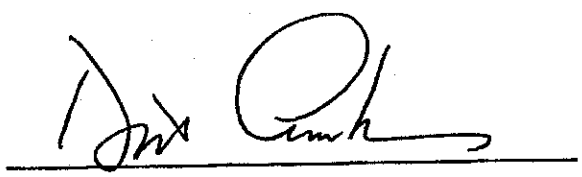
WEIGHING THE AGGRAVATING CIRCUMSTANCE AGAINST MITIGATING FACTORS

{¶50} The Court first notes that the Aggravating Circumstances in this case are significant and entitled to great weight. The Course of Conduct Aggravating Circumstance is especially deserving of great weight. The fact that the defendant purposefully killed or attempted to kill two or more persons, meaning the 13 victims of Aggravated Murder or Attempted Murder for each Count, and that he committed the crime of Aggravated Murder while also committing the felony offense of Kidnapping, raises the seriousness of these

circumstances to the highest level. Against these two aggravating circumstances the Court must weigh the mitigating factors. Although the factors in mitigation are entitled to some weight, after weighing the Aggravating Circumstance of Felony Murder and Course of Conduct against the Mitigating Factors, the Court finds that the Aggravating Circumstances outweigh the Mitigating Factors beyond a reasonable doubt and therefore finds that the sentence of death shall be imposed upon the defendant, Anthony Sowell for each Count of Aggravated Murder for which the jury found him guilty.

IT IS SO ORDERED!

Date: 8/24/2011



JUDGE DICK AMBROSE

CERTIFICATE OF SERVICE

A copy of the foregoing Sentencing Opinion was sent by ordinary U.S. Mail on this 24th day of August, 2011 to the following:

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