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

STATE OF FLORIDA

v. **CASE NO.: 2023-CF-330**

MICHAEL REGALSKI,
Defendant.
_____/

ORDER GRANTING DEFENDANT'S FLORIDA RULE OF CRIMINAL PROCEDURE 3.800(b) MOTION

THIS CAUSE came before the Court on Defendant's Florida Rule of Criminal Procedure 3.800(b) Motion, dated June 17, 2025. The Court, having reviewed the Motion and court file, finds as follows:

1. Defendant was charged by Amended Information with three counts of Attempted First Degree Murder with a Firearm (Counts I-III), Shooting at, within, or into an Occupied Vehicle (Count IV), and two counts of Tampering with Physical Evidence (Counts V and VI).

2. Defendant was found guilty following a jury trial on August 1, 2024. Specifically, Defendant was found guilty of three counts of Attempted Second Degree Murder, a lesser included offense (Counts I-III), Shooting at, within, or into an Occupied Vehicle (Count IV), and Tampering with Physical Evidence (Count V). Defendant was found not guilty of Tampering with Physical Evidence (Count VI).

3. On September 19, 2024, Defendant was sentenced to 25 years (with a 25-year minimum/mandatory sentence) on Count I, 20 years (with a 20-year minimum/mandatory sentence) on Count II, to be served consecutively to Count I, 20 years (with a 20-year minimum/mandatory sentence) on Count III, to be served consecutively to Count II, 15 years on Count IV, to be served concurrently with Count III, and 5 years on Count V, to be served

concurrently with Counts III and IV. Court costs and fines were imposed. Defendant appealed his judgment and sentence, and the appeal remains pending before the Fifth District Court of Appeal.

4. Thereafter, on April 9, 2025, Defendant filed a Florida Rule of Criminal Procedure 3.800(b)(2) Motion, wherein he claims that improper FDLE and incarceration costs were imposed. That Motion was denied by the Court. Subsequently, on June 17, 2025, Defendant filed the instant 3.00(b)(2) Motion, wherein he claims that the imposition of consecutive 10-20-Life sentences on Counts II and III was impermissible because there was a single injury.

5. Florida case law regarding the imposition of consecutive 10-20-Life sentences, pursuant to section 775.087, Florida Statutes, is replete with diverse outcomes, which are fact-dependent. Consecutive minimum mandatory sentences under section 775.087, Florida Statutes are "improper where the offenses occurred during a single criminal episode unless the defendant discharges the firearm and injures multiple victims or causes multiple injuries to one victim. . . . The injuries bifurcate the crimes thus allowing stacking of minimum mandatory sentences." *Valentin v. State*, 963 So. 2d 317, 319-20 (Fla. 5th DCA 2007); *see also Edwards v. State*, 145 So. 3d 194, 195-96 (Fla. 5th DCA 2014).

6. In *Cook v. State*, the Fifth District addressed a similar fact pattern to the one at bar, and held that consecutive 10-20-Life sentences were impermissible; specifically, the Fifth District held that

> there were indeed three victims . . . Mullins, Crews, and the restaurant. Both Mullins and Crews were threatened at gunpoint; ***however, the gun was only fired once and the bullet only struck Mullins.*** **Under the reasoning in *Ames* and *McGouirk*, Cook's minimum mandatory sentences could not be stacked because the gun was only fired once. Although Crews was assaulted and threatened, she was not physically injured and arguably not a victim for purposes of stacking the minimum mandatory sentences.** Therefore, . . . [the] imposition of minimum mandatory sentences under these circumstances was erroneous.

Cook v. State, 775 So. 2d 425, 427 (Fla. 5th DCA 2001) (Emphasis Added). Furthermore, the Fifth District held that consecutive 10-20-Life sentences are inappropriate "where . . . **only one person was shot** during a single criminal episode[.]" *Torres-Rios v. State*, 205 So. 3d 883, 883 (Fla. 5th DCA 2016) (Emphasis added); *see also Wanless v. State*, 271 So. 3d 1219, 1225 (Fla. 1st DCA 2019) (holding that bifurcation for stacking consecutive minimum/mandatory sentences does not occur where "there are no distinct acts to effect the bifurcation. There were multiple victims, but each was victimized by the same act.").

7. Here, the record established that one victim was injured. *See* Trial Transcript, Day Two, dated July 31, 2024, excerpt attached as Exhibit A, pg. 134, lns. 6-7 ("**Q.** And that's where the bullet went into your hip? **A.** Yes, ma'am."). Accordingly, since there was a single injury arising from a singular criminal episode, bifurcation did not occur; therefore, Defendant's sentence for Counts II and III should be served concurrently rather than consecutively. *See Torres-Rios,* 205 So. 3d at 883; *Cook*, 775 So. 2d at 427; *Wanless*, 271 So. 3d at 1225.

Therefore, it is **ORDERED:**

1. Defendant's Motion, dated June 17, 2025, is **GRANTED.** Defendant's sentences shall be corrected to reflect that Defendant's sentences on Counts II and III are to be served **concurrently**. *See Valentin v. State*, 963 So. 2d 317, 320-21 (Fla. 5th DCA 2007) (holding that "the ministerial act of ordering the two minimum mandatory sentences to be served concurrently" does not require Defendant to be present for resentencing.).
2. The **CLERK OF THE COURT** is directed to correct Defendant's sentences to reflect that Defendant's sentences on Counts II and III are to be served

concurrently. The amended Court Order Disposition Sheet is to be submitted to the undersigned for signature.

3. All other sentences **REMAIN INTACT AND UNCHANGED.**

DONE AND ORDERED in Chambers at Inverness, Citrus County, Florida this 14 day of August, 2025.

JOEL FRITTON
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to the following by e-service or U.S. Mail delivery this 14 day of August, 2025.

[x] Office of the State Attorney, EserviceCitrus@sao5.org

[x] Michael Ufferman, Esq., ufferman@uffermanlaw.com

Judicial Assistant/~~Deputy Clerk~~

Filing # 212068336 E-Filed 12/03/2024 02:20:36 PM

EXHIBIT A

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

STATE OF FLORIDA,

Plaintiff,

vs. CASE NUMBER: 09-2023-CF-000330-A

MICHAEL REGALSKI,

Defendant.
----------/

****TRANSCRIBED FROM ECR RECORDING****

TRANSCRIPT OF TRIAL DAY TWO PROCEEDINGS BEFORE
THE HONORABLE JOEL FRITTON

TAKEN AT: CITRUS COUNTY COURTHOUSE

DATE & TIME: 31 July 2024
8:31 a.m. to 4:06 p.m.

TRANSCRIBED BY: PAUL K. SPANGLER, RMR,
Certificates of Merit and
Proficiency, Notary Public

JOY HAYES COURT REPORTING
407 Courthouse Square
Inverness, Florida 34450
(352) 726-4451

INDEX TO WITNESS

A. Uh, that's the -- one of the photos of the wound I had in my right hip.

Q. And here in photo number six?

A. That's the wound -- that's another photo of the wound in my right hip.

Q. And that's where the bullet went into your hip?

A. Yes, ma'am.

Q. How were you feeling physically and emotionally while you were in the ambulance?

A. Like my life was about to end.

Q. Now, we're going to hear from your doctor about the specifics of your injuries, but I want to talk a little bit about how the injury impacted you and -- and how your recovery, uh, was.

MS. BAUMAN: Objection, Your Honor, relevance.

THE COURT: Approach.

(Begin sidebar.)

THE COURT: Go to the other side.

MS. MANNIS: Uh, I have to prove -- for great bodily harm, I have to prove it could, uh, lead to great bodily harm or permanent disfigurement. So how his injury has impacted him, his recovery versus how long he was in the hospital, things like that are, uh --

THE COURT: What's your response?