

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR SANTA ROSA COUNTY, FLORIDA**

STATE OF FLORIDA,

Plaintiff,

v.

Case No.: 2017-CF-669

MELISSA POCOPANNI,

Defendant.

**ORDER GRANTING MOTION FOR POSTCONVICTION RELIEF WITH
DIRECTIONS TO COUNSEL**

THIS CAUSE is before the Court on Defendant's Motion for Postconviction Relief, timely filed by and through counsel on September 6, 2022, pursuant to Florida Rule of Criminal Procedure 3.850. Having reviewed the motion, the record, and testimony presented during the limited evidentiary hearing held on May 9, 2025, the Court finds that the motion should be granted.

Defendant was charged with count one, principal to second degree murder with firearm; counts two and three, principal to attempted second degree murder with a firearm; and count four, conspiracy to commit robbery with a deadly weapon.¹ On November 2, 2018, the State announced a nolle prosequi on count four.² Defendant proceeded to trial on the remaining counts and was found guilty as charged.³ She was sentenced to life imprisonment in count one and thirty years on counts two and three, to run concurrent to each other.⁴ She appealed, and the First District Court of Appeal *per curiam* affirmed. *Pocopanni v. State*, 304 So. 3d 760 (Fla. 1st DCA 2020). The mandate issued on November 12, 2020.⁵ On July 2, 2021, Defendant filed a motion to modify sentence, and on November 12, 2021, Defendant was resentenced to 30 years of imprisonment on

¹ Exhibit A, Information.

² Exhibit B, Tr. of Hr'g on November 2, 2018 at p. 23.

³ Exhibit C, Verdict.

⁴ Exhibit D, Sentence.

⁵ Exhibit E, Mandate.

each count to run concurrent to each other.⁶ On September 6, 2022, Defendant filed the present motion.

Defendant raises one ground of error in which she alleges that trial counsel rendered ineffective assistance of counsel by overstating the strength of Defendant's case and failing to properly advise Defendant regarding the principal theory, which Defendant alleges resulted in her rejecting a plea offer of twenty-five years' imprisonment. Defendant claims that trial counsel told Defendant that she had a good defense because she merely loaned her car to the codefendants who were responsible for the murders. Defendant claims that counsel did not explain to her that if the jury determined that Defendant was a principal, she would be treated as having committed all the crimes perpetrated by the codefendants, and that trial counsel recommended that Defendant reject the State's plea offer. Defendant claims that she would have accepted the State's offer had trial counsel properly explained the principal theory to her. Defendant also alleged that the prosecutor would not have withdrawn the plea offer and that the trial court would have accepted it. On June 26, 2023, the Court issued an Order to Show Cause to the State. On October 30, 2023, the State conceded that Defendant was entitled to an evidentiary hearing.

On May 9, 2025, the Court held an evidentiary hearing. At the request of Defendant's counsel, the Court took judicial notice of the entire court file.⁷ Patrece Cashwell, Defendant's trial counsel who has practiced criminal law since 1998,⁸ testified about her representation of Defendant. As recalled by Ms. Cashwell, Defendant was involved in a drive-by shooting, but had no knowledge that her codefendants planned a shooting or a robbery and knew only that they needed to borrow her car.⁹ She sat in the backseat behind the driver and was not in possession of a firearm at the time of the shooting.¹⁰ Defendant immediately cooperated with law enforcement after the shooting, and was crucial to the codefendants getting arrested and convicted for the murder.¹¹ Defendant was not charged immediately and was initially told that she was just a

⁶ Exhibit F, November 12, 2021 Judgment and Sentence.

⁷ Exhibit G, Tr. of May 9, 2025 Evidentiary Hr'g (in relevant parts), at 4.

⁸ *Id.* at 5.

⁹ *Id.* at 7. The Court also notes that at trial, the State argued and presented evidence that Defendant knew or suspected the codefendants intended to commit a robbery.

¹⁰ *Id.* at 7-8.

¹¹ *Id.* at 6.

witness, but was arrested after the NAACP got involved in the case and threatened to sue the State Attorney.¹² Ms. Cashwell was retained after Defendant got arrested.¹³

Ms. Cashwell testified that her defense at trial was that Defendant was not a principal because she had no intent that the crime be committed.¹⁴ Ms. Cashwell admitted that she was “pretty personally involved” in the case and had “strong feelings about the way the case should have been resolved.”¹⁵ Ms. Cashwell testified that her standard practice is to discuss straight-up pleas to the court with her clients, but she had no independent recollection of having this conversation with Defendant so she could not say that she had this discussion in this case.¹⁶ The State extended an offer of twenty-five years in March 2018 and Ms. Cashwell discussed the offer with Defendant and Defendant’s mother multiple times.¹⁷ Ms. Cashwell recalled describing the offer as “ridiculous” when she talked about it with Defendant and Defendant’s mother, and “dismiss[ing]” it in the same meeting.¹⁸ Ms. Cashwell characterized the offer as “a horrible plea offer in light of how much [Defendant] had sacrificed and how much assistance she had provided to the State.”¹⁹ Ms. Cashwell thought it was a “very harsh” plea offer especially in light of Defendant being only nineteen years old and having been Baker Acted before and after the shooting, which was known to the State.²⁰ Ms. Cashwell remembered recommending Defendant not take the offer because Ms. Cashwell hoped that they would get something better.²¹ However, Ms. Cashwell admitted that she didn’t think this was a “winner case” and did not think that she had a good chance at winning at trial.²² She “kept pestering” the State for a better plea offer and did not take sufficient time to explain to Defendant what the principal theory meant and what the State’s theory of prosecution was going to be.²³ Ms. Cashwell did not think that Defendant understood what was going on with her case except for “on the most simplistic level” due to her young age, lack of experience with the criminal justice system, and mental health concerns.²⁴ Ms.

¹² *Id.* at 9.

¹³ *Id.*

¹⁴ *Id.* at 9-10.

¹⁵ *Id.* at 10.

¹⁶ *Id.* at 13-14.

¹⁷ *Id.* at 10.

¹⁸ *Id.* at 51.

¹⁹ *Id.* at 11.

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at 11-12.

²³ *Id.* at 12.

²⁴ *Id.* at 15-16.

Cashwell could not recall explaining to Defendant that she was facing a potential life sentence²⁵ and could not recall conveying her thoughts about it not being a “winner case” to Defendant.²⁶ Because Ms. Cashwell was “offended” by the State’s offer, she did not spend as much time going over the offer with Defendant as she does in other cases with other clients.²⁷ Ms. Cashwell admitted that she was “too personally involved” in this case, “really felt for [Defendant] and her plight,” and that this “may have affected [Ms. Cashwell’s] communication.”²⁸ She stated that it’s possible that the characterization of her overstating the strength of Defendant’s case is accurate.²⁹ She also admitted that even if the argument that Defendant was not a principal to the offenses was weak, there was a chance of a jury nullification.³⁰ Ms. Cashwell also testified that her understanding of principal theory was that Defendant had to have a “conscious intent” that the crime be committed, and she did not think Defendant met the legal definition of principal in this case.³¹ Lastly, Ms. Cashwell testified that based on her experience practicing in front of the trial judge, she believed he would have accepted the plea offer.³²

Defendant testified that Ms. Cashwell described the State’s plea offer to her as “ridiculous” and that Ms. Cashwell “felt like we were not going to get a conviction.”³³ She said she rejected the State’s plea offer based on Ms. Cashwell’s recommendation.³⁴ She testified that at the time of trial, she did not think her actions made her guilty of second-degree murder and attempted second-degree murder, but after she got to prison and studied the principal theory she understood that she was a principal.³⁵ She stated that she would have accepted the State’s offer at the time it was offered had she had a better understanding of the principal theory³⁶ and that she trusted Ms. Cashwell and would have followed her advice had she recommended that she take the plea offer.³⁷ Defendant testified that she did not remember actually rejecting the plea offer but recalled Ms. Cashwell commenting on the offer along the lines of, “this plea deal is ridiculous ... we’re not

²⁵ *Id.* at 16.

²⁶ *Id.* at 17.

²⁷ *Id.* at 23.

²⁸ *Id.*

²⁹ *Id.* at 18.

³⁰ *Id.* at 20.

³¹ *Id.* at 21.

³² *Id.* at 58-59.

³³ *Id.* at 25.

³⁴ *Id.*

³⁵ *Id.* at 27.

³⁶ *Id.*

³⁷ *Id.* at 29.

taking this ... this is crazy.”³⁸ She also testified that at the time of the trial, she did not “think [she] understood” that she could get a life sentence because Ms. Cashwell kept telling her that she was not going to go to prison.³⁹ At the time, Defendant agreed with Ms. Cashwell’s assessment that the plea offer was “ridiculous,” and Defendant did not discuss accepting the plea offer with her family.⁴⁰

Defendant’s mother testified that she and her husband were always present at any meeting Defendant had with Ms. Cashwell.⁴¹ The mother received all electronic communications sent to Defendant, including discovery documents, through the mother’s email account.⁴² She recalled Ms. Cashwell informing her that the State was offering twenty-five years but stating that “we weren’t taking it,” with no further discussion of the plea offer.⁴³

To establish a *prima facie* case of ineffective assistance of counsel, a defendant must satisfy both prongs of *Strickland v. Washington*, 466 U.S. 668 (1984). First, the defendant must demonstrate that counsel performed deficiently. *Id.* at 687. This requires showing that counsel’s performance fell below a standard of reasonableness under prevailing professional norms. *Id.* at 687–90. Second, the defendant must show prejudice. *Id.* at 687. This requires showing that but for the deficient performance of trial counsel, there is a reasonable probability that the result of the proceeding would have been different. A reasonable probability is a probability that sufficiently undermines confidence in the outcome of the proceedings. *Id.* at 694. If the defendant fails to satisfy one prong, it is not necessary to consider the other. *Id.* at 697; *see also Waterhouse v. State*, 792 So. 2d 1176, 1182 (Fla. 2001) (citations omitted).

The failure of counsel to correctly inform a defendant of the maximum penalty she faced before rejecting a plea offer constitutes deficient performance. *Alcorn v. State*, 121 So. 3d 419, 422 (Fla. 2013). It is the responsibility of defense counsel to advise Defendant of “all pertinent matters bearing on the choice of which plea to enter and the particulars attendant upon each plea and the likely results thereof, as well as any possible alternatives that may be open to [Defendant].” Fla. R. Crim. P. 3.171(c)(2)(B). To show that counsel’s performance prejudiced Defendant, she must demonstrate a reasonable probability that (1) she would have accepted the offer had counsel

³⁸ *Id.* at 34.

³⁹ *Id.* at 37.

⁴⁰ *Id.* at 39.

⁴¹ *Id.* at 45-46.

⁴² *Id.* at 46-47.

⁴³ *Id.* at 47.

advised her correctly; (2) the prosecutor would not have withdrawn the offer; (3) the court would have accepted the offer; and (4) the conviction or sentence, or both, under the offer's terms would have been less severe than under the judgment and sentence that in fact were imposed. *Alcorn*, 121 So. 3d at 422.

The Court notes that Ms. Cashwell had no independent recollection of advising Defendant about her maximum possible sentence if she was found guilty at trial and did not recall talking to Defendant about the option of entering a plea straight up to the Court. Although Ms. Cashwell did not think this was a "winner case," she could not recall explaining this to her client and agreed that she might have overstated the strengths of the case to Defendant because of her personal feelings about the case. Defendant testified that she did not understand that she could get sentenced to life in prison at the time of trial. Based on Ms. Cashwell's lack of recollection and Defendant's testimony, the Court finds that Ms. Cashwell failed to properly advise Defendant of the maximum sentence she faced if convicted and her likelihood of success at trial. Additionally, both Defendant and her mother were consistent in their accounts of Ms. Cashwell not discussing the pros and cons of the plea offer. Defendant testified that Ms. Cashwell called the offer "ridiculous," and Ms. Cashwell acknowledged describing the offer as such. Moreover, Ms. Cashwell admitted that she was "offended" by the offer and did not spend as much time going over with it with Defendant as she would with another client. Lastly, Ms. Cashwell acknowledged that she was "too personally involved" in this case, "really felt for [Defendant] and her plight," and this "may have affected [her] communication." The Court finds that Ms. Cashwell was too emotionally invested in this case and blinded by her own personal offense regarding the plea offer to adequately explain the offer to her client. Therefore, the Court finds Ms. Cashwell's performance deficient.

The Court also finds that Ms. Cashwell's performance prejudiced Defendant. The Court finds Defendant's testimony demonstrated a reasonable probability that she would have accepted the State's offer had it been properly explained to her. There was no evidence presented that the prosecutor withdrew the offer, and Ms. Cashwell testified that in her experience, the Court would have accepted the offer. It is clear that the sentence under the offer's terms would have been less severe than the sentence that was imposed. Therefore, the Court finds that Defendant has demonstrated prejudice.

Because both prongs of *Strickland* have been satisfied, the Court finds that Ms. Cashwell was ineffective in her failure to convey the plea offer to Defendant. Consequently, Defendant is

entitled to an opportunity to accept the plea offer. If Defendant accepts the plea offer, the Court shall exercise its discretion whether to resentence Defendant according to the offer or leave the sentence undisturbed. *See Lafler v. Cooper*, 566 U.S. 156, 171 (2012); *State v. Elma*, 325 So. 3d 139, 142 (Fla. 5th DCA 2020).

Accordingly, it is **ORDERED AND ADJUDGED** that:

1. Defendant's Motion for Postconviction Relief is **GRANTED**.
2. The State is **ORDERED** to re-extend the original plea offer to Defendant. Defendant shall be brought before this Court for an opportunity to accept or reject the plea offer. If she accepts, the Court shall exercise its discretion in resentencing Defendant.
3. Defendant's Counsel is **DIRECTED** to coordinate with the State Attorney and schedule a hearing **within 60 days of service of this order** and to prepare a notice of hearing and proposed order to transport.

DONE AND ORDERED.

08/11/2025 16:08:52
17000669GFMXAX

signed by CIRCUIT COURT JUDGE CLIFTON DRAKE 08/11/2025 04:08:52 ZBLP9iKe

CLIFTON A. DRAKE
CIRCUIT JUDGE

CAD/yvt

[CERTIFICATE OF SERVICE ON NEXT PAGE]

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing Order to Show Cause has been furnished by regular U.S. mail (unless otherwise indicated) to the following:

Melissa Pocopanni
c/o Michael Ufferman
ufferman@uffermanlaw.com
(via e-service)

Office of the State Attorney
Division A
(via e-service)

this _____ day of _____, 2025.

JASON D. ENGLISH, ESQ., Clerk of Court

BY: _____
Deputy Clerk

Clerk Number: 5717CF000669A-A.

Arrest Date: 04/18/2017

Agency Number: MPD17OFF000160

RACE: W **SEX:** F **DOB:** 06/12/1997

- 1) PRINCIPAL SECOND DEGREE MURDER WITH A FIREARM
- 2) PRINCIPAL ATTEMPTED SECOND DEGREE MURDER WITH A FIREARM
- 3) PRINCIPAL ATTEMPTED SECOND DEGREE MURDER WITH A FIREARM
- 4) CONSPIRACY ROBBERY WITH A DEADLY WEAPON (1212)

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA
IN THE CIRCUIT COURT OF SANTA ROSA COUNTY, FLORIDA**

STATE OF FLORIDA,
Plaintiff,

v.

MELISSA BLAIR POCOPANNI,
Defendant.

WILLIAM EDDINS, STATE ATTORNEY FOR THE FIRST JUDICIAL CIRCUIT OF FLORIDA, PROSECUTING FOR THE FIRST CIRCUIT OF FLORIDA, CHARGES THAT **MELISSA BLAIR POCOPANNI, on or about February 4, 2017**, at and in Santa Rosa County, Florida, did aid, abet, counsel, or otherwise procure as a principal in the first degree, **KYHEM JALIL JOHNSON, DEDRIC KEANDRE DAVIS and/or WALTER RAMONE FORD**, to unlawfully and by an act imminently dangerous to another, and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual, did kill and murder , **THOMAS LEON BUCKHALTER, JR.**, a human being, by shooting him, and in the commission of the offense, another did use, carry, display and actually possess a firearm, in violation of Sections 777.011, 782.04(2) and 775.087, Florida Statutes. **(F1-PBL-L10)**

COUNT 2: AND YOUR INFORMANT AFORESAID, PROSECUTING AS AFORESAID, ON HIS OATH AFORESAID, FURTHER INFORMATION MAKES THAT **MELISSA BLAIR POCOPANNI, on or about February 4, 2017**, at and in Santa Rosa County, Florida, did aid, abet, counsel, or otherwise procure as a principal in the first degree, **KYHEM JALIL JOHNSON, DEDRIC KEANDRE DAVIS and/or WALTER RAMONE FORD**, to unlawfully and by an act imminently dangerous to another, and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual, did attempt to kill and murder **ASHLEY NICOLE JOHNS**, a human being, by shooting her, and in the commission of the offense, another did use, carry, display and actually possess a firearm, in violation of Sections 777.011, 777.04, 782.04(2) and 775.087, Florida Statutes. **(F1-L9)**

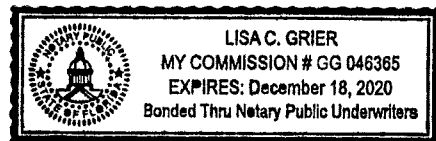
COUNT 3: AND YOUR INFORMANT AFORESAID, PROSECUTING AS AFORESAID, ON HIS OATH AFORESAID, FURTHER INFORMATION MAKES THAT **MELISSA BLAIR POCOPANNI**, on or about February 4, 2017, at and in Santa Rosa County, Florida, did aid, abet, counsel, or otherwise procure as a principal in the first degree, **KYHEM JALIL JOHNSON, DEDRIC KEANDRE DAVIS and/or WALTER RAMONE FORD**, to unlawfully and by an act imminently dangerous to another, and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual, did attempt to kill and murder **JARMUN VONSHAE NAIRN**, a human being, by shooting him and in the commission of the offense, another did use, carry, display and actually possess a firearm, in violation of Sections 782.04(2), 777.011, 777.04 and 775.087, Florida Statutes. (F1-L9)

COUNT 4: AND YOUR INFORMANT AFORESAID, PROSECUTING AS AFORESAID, ON HIS OATH AFORESAID, FURTHER INFORMATION MAKES THAT **MELISSA BLAIR POCOPANNI**, on or about February 4, 2017, at and in Santa Rosa, Florida, did agree, conspire, combine or confederate with **KYHEM JALIL JOHNSON, DEDRIC DEANDRE DAVIS and/or WALTER RAMONE FORD** to commit a Robbery with a deadly weapon, in violation of Sections 777.04 and 812.13(2)(a), Florida Statutes. (F1-L8)

**STATE OF FLORIDA
COUNTY OF SANTA ROSA**

Before me personally appeared the undersigned designated Assistant State Attorney for the First Judicial Circuit of Florida, being personally known to me, and who first being duly sworn, says that the allegations set forth in the foregoing information are based on facts that have been sworn as true, and which if true, would constitute the offense there charged, that said Assistant State Attorney has received testimony under oath from a material witness or witnesses for the offense and that this prosecution is instituted in good faith.

For AMY C SHEA (ashea@sa01.org)
FLORIDA BAR NO: 0062821
ASSISTANT STATE ATTORNEY
PO BOX 12726
PENSACOLA, FL 32591-2726
PHONE: (850) 595-4725
ALT EMAIL: lgrier@sa01.org



Sworn to and subscribed before me this 3rd day of May, 2017.

Lisa C. Grier
Notary Public

1 process: If the State came in and said the three
2 codefendants were innocent, it was all Pocopanni's
3 plan, she went over there, she gave them the guns,
4 she told them to shoot if they saw Deramus or
5 Ashley Johns, you know that -- that would be
6 totally inconsistent with what was presented. But
7 to present what her motive may -- might have been,
8 even thought it's different than what their motive
9 was --

10 MS. CASHWELL: Uh-huh.

11 THE COURT: -- that's not inconsistent.

12 MS. CASHWELL: Okay.

13 THE COURT: All right. Number six.

14 MS. CASHWELL: And just to make sure that I'm
15 understanding, is the -- is the State then nolle
16 pros -- or not nolle -- yeah, dismissing the count
17 involving conspiracy for murder -- or murder --
18 robbery?

19 THE COURT: Robbery.

20 MR. GORDON: I guess procedurally I don't mind
21 announcing a nolle pros --

22 THE COURT: Okay.

23 MR. GORDON: -- as to count four at this time.
24 I'm not proceeding forward on it.

25 THE COURT: Okay. Okay.

IN THE CIRCUIT COURT IN AND FOR SANTA ROSA COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

vs.

CLERK NUMBER: 5717CF000669A

MELISSA BLAIR POCOPANNI,

DIVISION: A

Defendant.
_____ /VERDICT

WE, THE JURY, find as follows, that Melissa Blair Pocopanni, as to the offenses charged in the Information, is:

COUNT ONE

- ☒ Guilty of Principal to Second Degree Murder, as charged.
☐ Guilty of Principal to Manslaughter, a lesser included offense.
☐ Not Guilty.

COUNT TWO

- ☒ Guilty of Principal to Attempted Second Degree Murder, as charged.
☐ Guilty of Principal to Attempted Manslaughter, a lesser included offense
☐ Not Guilty.

COUNT THREE

- ☒ Guilty of Principal to Attempted Second Degree Murder, as charged.
☐ Guilty of Principal to Attempted Manslaughter, a lesser included offense.
☐ Not Guilty.

SO SAY WE ALL, this 15 day of November, 2018.



FOREPERSON SIGNATURE

Kimberly J. Jones

PRINTED NAME OF FOREPERSON

SANTA ROSA COUNTY FL
FELONY FILED

2018 NOV 15 PM 7:16

DONALD C. SPENCER
CLERK OF COURT &
COMPTROLLER

EXHIBIT
D

STATE OF FLORIDA
IN THE CIRCUIT COURT OF THE 1ST JUDICIAL CIRCUIT
IN AND FOR SANTA ROSA COUNTY FLORIDA

STATE OF FLORIDA,

-vs-

MELISSA BLAIR POCOPANNI
Defendant.

UCN: 572017CF000669CFAXMX

Case Number: 17000669CFMXAX

Sentence

As To Count 1

The defendant, being personally before this court, accompanied by the defendant's attorney of record, PATRECE C CASHWELL, and having been adjudicated guilty herein, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown,

(Check one if applicable)

- ☐ and the court having on 01/29/2019 deferred imposition of sentence until this date 01/29/2019
- ☐ and the court having previously entered a judgment in this case on _____ now resentsences the defendant
- ☐ and the court having placed the defendant on probation/community control and having subsequently revoked the defendant's probation/community control

It Is The Sentence Of The Court That:

- The Defendant is hereby committed to the custody of the Department of Corrections.
- ☐ The defendant pay a fine pursuant to section 775.083, Florida Statutes, plus a 5% surcharge required by section 938.04 Florida Statutes, as indicated on the Fine/Costs/Fee Page.
- ☐ The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To Be Imprisoned:

For a term of natural life.

In the event the defendant is ordered to serve additional split sentences, all incarcerations portions shall be satisfied before the defendant begins service to the supervision terms.

**STATE OF FLORIDA
IN THE CIRCUIT COURT OF THE 1ST JUDICIAL CIRCUIT
IN AND FOR SANTA ROSA COUNTY FLORIDA**

STATE OF FLORIDA,

-vs-

MELISSA BLAIR POCOPANNI
Defendant.

UCN: 572017CF000669CFAXMX

Case Number: 17000669CFMXAX

Sentence

As To Counts 2&3

The defendant, being personally before this court, accompanied by the defendant's attorney of record, PATRECE C CASHWELL, and having been adjudicated guilty herein, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown,

(Check one if applicable)

- ☐ and the court having on 01/29/2019 deferred imposition of sentence until this date 01/29/2019

☐ and the court having previously entered a judgment in this case on _____ now resentsences the defendant

☐ and the court having placed the defendant on probation/community control and having subsequently revoked the defendant's probation/community control

It Is The Sentence Of The Court That:

- The Defendant is hereby committed to the custody of the Department of Corrections.

☐ The defendant pay a fine pursuant to section 775.083, Florida Statutes, plus a 5% surcharge required by section 938.04 Florida Statutes, as indicated on the Fine/Costs/Fee Page.

☐ The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To Be Imprisoned:

For a term of 30.000 year(s)

In the event the defendant is ordered to serve additional split sentences, all incarcerations portions shall be satisfied before the defendant begins service to the supervision terms.

**STATE OF FLORIDA
IN THE CIRCUIT COURT OF THE 1ST JUDICIAL CIRCUIT
IN AND FOR SANTA ROSA COUNTY FLORIDA**

STATE OF FLORIDA,

-vs-

MELISSA BLAIR POCOPANNI
Defendant.

UCN: 572017CF000669CFAXMX

Case Number: 17000669CFMXAX

OBTS#: 5701124923

Other Provisions

As To Counts 1,2,3

It is further ordered that the defendant shall be allowed a total of 126,000 day(s) credit for such time incarcerated before imposition of this sentence.

ALL COUNTS CONCURRENT

CREDIT FOR TIME SERVED:

- ☐ The Department of Corrections shall apply the original jail time (To be used for Resentencing credit and to compute and apply credit for time served and the and after VOP and VOCC.) gain time awarded pursuant to section 944.275 Florida Statutes. (Pre October 1, 1989)
- ☐ The Department of Corrections shall apply the original jail time credit and to compute and apply credit for time served and unforfeited gain time awarded during prior service of incarceration of the split sentence pursuant to section 948.06 (6) Florida Statutes. (Post October 1, 1989)
- ☐ Defendant is allowed credit for _____ days credit county jail served between date of arrest as a violator and date of resentencing. The Department of Corrections shall apply original jail credit awarded and shall compute and apply credit for actual time served in prison and any earned and unforfeited gain time awarded prior service on:

CASE NO:

COUNT

pursuant to section 944.276 Florida Statutes.

State of Florida

v.

MELISSA BLAIR POCOPANNO

Defendant

Case Number: 17-CF-669

DONALD C. SPENCER
CLERK OF COURT &
COMPTROLLER

JAN 29 PM 12:54

SANTA ROSA COUNTY FL
FELONY FILED**Other Provision, continued:****Consecutive/Concurrent
As To Other Counts**It is further ORDERED that the sentence imposed for this count shall run ☐consecutive to ☐concurrent with the sentence set forth in count ___ of this case.**Consecutive/Concurrent
As To Other Convictions**It is further ORDERED that the composite term of all sentences imposed for the count(s) specified in this Order shall run ☐consecutive to ☐concurrent with the following:☐ any active sentence being served.☐ specific sentences:

In the event the above sentence is to the Department of Corrections, the Sheriff of Santa Rosa County, Florida, is hereby ORDERED AND DIRECTED to deliver the Defendant to the Department of Corrections at the facility designated by the Department together with a copy of this Judgment and Sentence and any other documents specified by Florida Statute.

The Defendant in open court was advised of the right to appeal from this sentence by filing Notice of Appeal within 30 days from this date with the clerk of this Court, and the Defendant's right to the assistance of counsel in taking the appeal at the expense of the State on showing of indigency.

In imposing the above sentence, the court further ☐recommends ☐ORDERS:

DONE AND ORDERED in open court in Milton, Santa Rosa County, Florida this 29 day of JANUARY, 2019.

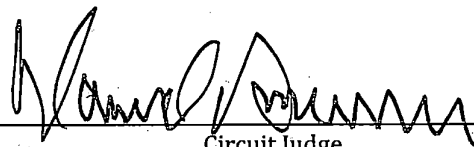

Circuit Judge

EXHIBIT
E

MANDATE

from

FIRST DISTRICT COURT OF APPEAL

STATE OF FLORIDA

This case having been brought to the Court, and after due consideration the Court having issued its opinion;


YOU ARE HEREBY COMMANDED that further proceedings, if required, be had in accordance with the opinion of this Court, and with the rules of procedure, and laws of the State of Florida.

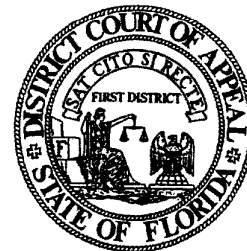
WITNESS the Honorable Stephanie W. Ray, Chief Judge, of the District Court of Appeal of Florida, First District, and the seal of said Court at Tallahassee, Florida, on this day.

November 12, 2020

Melissa Pocopanni v.
State of Florida

DCA Case No.: 1D19-0406
Lower Tribunal Case No.: 2017 CF 669


KRISTINA SAMUELS, CLERK
District Court of Appeal of Florida, First District



th

Mandate and opinion to: Hon. Donald C. Spencer, Clerk

cc: (without attached opinion)

Hon. Ashley Moody, AG

Michael Ufferman

Damaris E. Reynolds, AAG

Patrece C. Cashwell

**STATE OF FLORIDA
IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR SANTA ROSA COUNTY, FLORIDA**

STATE OF FLORIDA

Case Number: 17000669CFMXAX

v.

OBTS Number: 5701124923

MELISSA BLAIR POCOPANNI

JUDGMENT☐ Probation Violator☐ Resentence☐ Community Control Violator☐ Retrial☒ Modification☐ Amended

The defendant, MELISSA BLAIR POCOPANNI, being personally before this Court on November 12, 2021 represented by MICHAEL UFFERMAN, the attorney of record, and the state represented by MATTHEW GORDON, and having been tried and found guilty by a jury of the following crime(s):

Count	Statute Number	Statute Description	Level/Degree
1.	782.04.2	PRINCIPAL SECOND DEGREE MURDER WITH A FIREARM	F1-PBL
2.	782.04.2	PRINCIPAL ATTEMPTED SECOND DEGREE MURDER WITH A FIREARM	F1
3.	782.04.2	PRINCIPAL ATTEMPTED SECOND DEGREE MURDER WITH A FIREARM	F1
4		NOLLE PROSEQUI	

☒ It is ordered that the defendant is hereby ADJUDICATED GUILTY of the above crime(s).☐ It is ordered that adjudication of guilt be WITHHELD.☐ Probation ☐ Community Control previously ordered in this case is revoked.☐ Previously ADJUDICATED GUILTY on .

☐ As a qualified offender pursuant to section 943.325, Florida Statutes, the defendant shall be required to submit DNA samples as required by law.

Misdemeanor Count(s):☐ It is ordered that the defendant is hereby ADJUDICATED GUILTY of the above crime(s).☐ It is ordered that adjudication of guilt be WITHHELD.☐ Probation .☐ County Jail .☐ Previously ADJUDICATED GUILTY on .**DONE AND ORDERED** in open court in Santa Rosa County, Florida, on November 12, 2021.


**STATE OF FLORIDA
IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR SANTA ROSA COUNTY, FLORIDA**

STATE OF FLORIDA

Case Number: 17000669CFMXAX

v.

MELISSA BLAIR POCOPANNI

SENTENCE

As to Count(s): 1,2,3

The defendant, MELISSA BLAIR POCOPANNI, being personally before this Court, accompanied by the defendant's attorney of record, MICHAEL UFFERMAN, and having been adjudicated guilty herein, and the Court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown.

Mark one, if applicable:

- ☐ and the Court having on deferred imposition of sentence until November 12, 2021.
- ☐ and the Court having previously entered a judgment in this case on now resentsences the defendant.
- ☐ and the Court having placed the defendant on Community Control/ Probation and having subsequently revoked the defendant's Community Control/Probation.

It is the Sentence of the Court that:

- ☒ The defendant is hereby committed to the custody of the Department of Corrections.
- ☐ The defendant is hereby committed to the custody of the Sheriff of Santa Rosa County, Florida.
- ☐ The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.
- ☐ The defendant to pay a fine in the amount of \$, pursuant to section 775.083, Florida Statutes, plus \$ as the 5% surcharge required by section 938.04, Florida Statutes.

To Be Imprisoned (Mark One; unmarked sections are not applicable):

- ☐ For a term of natural life.
- ☒ For a term of 30 YEARS.
- ☐ Said sentence is SUSPENDED for a period of subject to conditions set forth in this order.

To Be Supervised (Mark One; unmarked sections are not applicable):

- ☐ The defendant is hereby ordered to a probationary period under the supervision of the Department of Corrections.

☐ The defendant is hereby ordered to community control under the supervision of the Department of Corrections.

If a split sentence, complete the appropriate paragraph:

☐ Followed by a period of on ☐ Community Control ☐ Probation under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order entered herein.

☐ However, after serving a period of 30 YEARS imprisonment in , the balance of the sentence shall be suspended, and the defendant shall be placed on ☐ Probation ☐ Community Control for a period of under the supervision of the Department of Corrections according to the terms and conditions of ☐ Probation ☐ Community Control set forth in a separate order entered herein.

In the event the defendant is ordered to serve additional split sentences, all incarceration portions shall be satisfied before the defendant begins service of the supervision terms.

SPECIAL PROVISIONS

As to Case Number/Count(s):

By appropriate notation, the following provisions apply to the sentence imposed:

Mandatory/Minimum Provisions:

☐ **Firearm** - It is further ordered that the 3-year minimum imprisonment provision of section 775.087(2)(a), Florida Statutes, is hereby imposed for the sentence specified in this count.

☐ **Drug Trafficking** - It is further ordered that the mandatory minimum imprisonment provision of Section 893.135(1), Florida Statutes, is hereby imposed for the sentence specified in this count.

☐ **Controlled Substance Within 1,000 Feet of School** - It is further ordered that the 3-year minimum imprisonment provision of section 893.13(1)(c)1., Florida Statutes, is hereby imposed for the sentence specified in this count.

☐ **Habitual Felony Offender** - The defendant is adjudicated a habitual felony offender and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(a), Florida Statutes. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.

☐ **Habitual Violent Felony Offender** - The defendant is adjudicated a habitual violent felony offender and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(b), Florida Statutes. A minimum term of year(s) must be served prior to release. The requisite findings of the Court are set forth in a separate order or stated on the record in open court.

☐ **Capital Offense** - It is further ordered that the defendant shall serve a life sentence without the possibility of parole in accordance with section 775.082, Florida Statutes.

☐ **Sexual Predator** - The defendant is adjudicated a sexual predator as set forth in section 775.21, Florida Statutes.

☐ **Sexual Offender** - The defendant meets the criteria for a sexual offender as set forth in section 943.0435(1)(h)1., Florida Statutes.

Other Provisions:

☐ **Retention of Jurisdiction** - The Court retains jurisdiction over the defendant pursuant to section 947.16(4), Florida Statutes (1983).

☒ **Original Jail Credit** - It is further ordered that the defendant shall be allowed a total of 126 days as credit for time incarcerated before imposition of this sentence.

☐ **VOP/VOCC Jail Credit** - It is further ordered that the defendant shall be allowed a total of days as credit for time incarcerated from the date of arrest as a violator to the date of resentencing.

☒ **Prison Credit** - It is further ordered that the defendant shall be allowed credit for all time previously served on **counts 1,2 & 3** in the Department of Corrections prior to resentencing.

☐ **Other Prison Credit** - It is further ordered that the Department of Corrections shall apply original jail time credit and shall compute and apply credit for all time previously served in the Department of Corrections on case number(s)/count(s)

☒ **Consecutive/Concurrent** - It is further ordered that the sentence imposed for

☒ **All Counts** - shall run (mark one): ☐ consecutive ☒ concurrent.

☐ **All Cases and Counts** - shall run (mark one): ☐ consecutive ☐ concurrent.

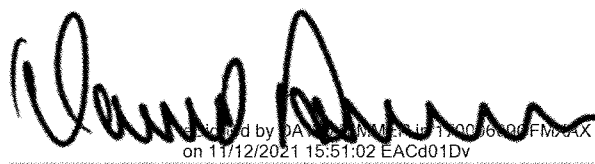
☐ **Count(s)** - shall run (mark one): ☐ consecutive to ☐ concurrent with the sentence set forth in count of this case.

☐ **Consecutive/Concurrent as to Other Convictions** - It is further ordered that the composite term of all sentences imposed for the counts specified in this order shall run (mark one): ☐ consecutive to ☐ concurrent with the following (mark one): ☐ Any active sentence being served ☐ Specific sentences:

In the event the above sentence is to the Department of Corrections, the Sheriff of Santa Rosa County is hereby ordered and directed to deliver the defendant to the Department of Corrections at the facility designated by the department together with a copy of this judgment and sentence and any other documents specified by Florida Statute.

The defendant in open court was advised of the right to appeal from this sentence by filing notice of appeal within thirty (30) days from this date with the clerk of this Court and the defendant's right to the assistance of counsel in taking the appeal at the expense of the state on showing of indigency.

DONE AND ORDERED in open court at Santa Rosa County, Florida, on November 12, 2021.


Signed by DA Smith on 11/12/2021 15:51:02 EACd01Dv

IN THE CIRCUIT COURT IN AND FOR SANTA ROSA COUNTY, FLORIDA

EXHIBIT

G

STATE OF FLORIDA,

Plaintiff,

vs.

CASE NO: 2017 CF 0669

MELISSA POCOPANNI,

Defendant

_____/

Proceedings held in the above-styled cause before the Honorable Clifton A. Drake, Circuit Judge, on the 9th day of May, 2025, at the Santa Rosa County Courthouse, 4025 Avalon Boulevard, Milton, Florida, 32570.

APPEARANCES:

FOR THE STATE: MATT CASEY, ESQUIRE
Assistant State Attorney
190 Governmental Center
Pensacola, Fl 32502

FOR THE DEFENDANT: MICHAEL UFFERMAN, ESQUIRE
2022 Raymond Diehl Rd.
Tallahassee, Fl 32308

HYACINTHE REAVES
CIRCUIT COURT REPORTER

P R O C E E D I N G S

THE COURT: We're here today on the State of Florida versus Melissa Pocopanni, Case No. 2017-CF-669. The State is present, represented by Mr. Matt Casey. The Defense is present, represented by Mr. Ufferman and, of course, Ms. Pocopanni is here.

I have, of course, read the motion for post-conviction relief. This is the one that was filed on September 6, 2022. I think at one point it was going to be amended, and then counsel chose not to amend it. The State conceded that an evidentiary hearing was required.

So Mr. Casey, are you prepared to proceed?

MR. CASEY: Yes, Your Honor.

THE COURT: Mr. Ufferman, are you prepared to proceed?

MR. UFFERMAN: Yes, Your Honor.

THE COURT: All right. Mr. Ufferman, what are your thoughts on who should call the first witness?

MR. UFFERMAN: Your Honor, I believe the procedure is, because it's my motion and my burden, that the Defense proceeds first, and the key witness in this case is going to be Ms. Cashwell, who's here, and I'm going to call her as our first witness.

A couple of notes: I think it's a pretty

1 straightforward claim. You said you've read it. The
2 issue concerns a 25-year plea offer that was extended
3 in this case, and I think from the testimony you're
4 going to hear, this was a pretty unique case in terms
5 of Ms. Cashwell's representation of my client, what my
6 client was charged with and the assistance that she
7 provided to the State throughout the prosecutions of
8 the co-defendants. I think a lot of that is background
9 information that's going to, potentially, explain what
10 happened with the 25-year plea offer and how it was
11 explained to my client.

12 I will note for the record also, as far as
13 post-conviction proceedings, I generally am able to
14 work well with -- I do these around the state. I'm
15 generally able to work well with prosecutors around the
16 state, and witnesses, but this case, in particular, has
17 been a pleasure to work on because Mr. Casey and I went
18 to law school together and, obviously, he's an
19 extremely good lawyer, ethical lawyer and a gentleman.
20 So we've had great workings in getting ready for today,
21 and the same with Ms. Cashwell. I've known her for
22 years, and she's always professional.

23 So I think it's pretty straightforward. I
24 think there will be two or three witnesses that we
25 intend to present, again, beginning with Ms. Cashwell.

1 I would ask the Court to take judicial notice
2 of the record, although I don't know how much of a role
3 the trial will actually play into the Court's
4 consideration, but, of course, I would want the Court
5 to be able to review anything that you think is
6 necessary that's in the court file to make your
7 decision.

8 THE COURT: Yes, sir. The Court will take
9 judicial notice of the entire court file.

10 Mr. Casey, do you agree with that procedure of
11 Defense calling witnesses first?

12 MR. CASEY: Yes, Your Honor.

13 THE COURT: And I'll say, all three of you
14 regularly practice in front of me, and so I'm aware of
15 each of your professionalism, and I'm glad you've all
16 been able to work well together.

17 Mr. Ufferman, you may call your first witness.

18 MR. UFFERMAN: Thank you. We will call
19 Ms. Cashwell.

20 THE COURT: Ma'am, will you please raise your
21 right hand?

22 (Witness sworn)

23 THE WITNESS: Yes, Your Honor.

24 THE COURT: Thank you. Please take a seat.

25 THE WITNESS: Thank you.

1 MR. UFFERMAN: May it please the Court?

2 THE COURT: Yes, sir.

3 WHEREUPON, PATRECE CASHWELL,
4 having been first duly sworn, was examined and testified as
5 follows:

6 DIRECT EXAMINATION

7 BY MR. UFFERMAN:

8 Q. Good morning.

9 A. Good morning.

10 Q. Will you please state your name and spell your
11 name for the record?

12 A. Patrece, P-A-T-R-E-C-E, Cashwell,
13 C-A-S-H-W-E-L-L.

14 Q. Ms. Cashwell, what is your occupation?

15 A. I'm an attorney.

16 Q. What kind of law do you practice?

17 A. Criminal.

18 Q. How long have you been practicing criminal
19 law?

20 A. Since 1998.

21 Q. Have you always practiced in the First
22 Judicial Circuit?

23 A. Yes.

24 Q. I want to ask you about your representation of
25 Ms. Pocopanni. Do you remember this case?

1 A. Yes. I don't remember every facet but yes.

2 Q. Do you remember -- I'm aware -- and I can look
3 at the record. I know you don't remember particular dates,
4 but if the record established that the murders in this case
5 occurred on February 4, 2017, does that sound right?

6 A. Correct.

7 Q. After the murders in this case occurred, do
8 you remember what law enforcement involvement was, as far as
9 having contact with Ms. Pocopanni?

10 A. What I recall is that she was immediately
11 cooperative with law enforcement, that but for Ms. Pocopanni
12 cooperating with law enforcement, they would not have known
13 who the people were in the car that had actually committed
14 the crime, that she continued to cooperate with law
15 enforcement at great risk to herself and her family because
16 they were receiving death threats, that she -- but for her
17 testimony at trial, they would never have had a conviction
18 of co-defendants, that they had -- she gave absolute open
19 access to the state attorney, Amy Shea, and her
20 investigator, Wayne Wright. They were over at
21 Ms. Pocopanni's house getting her ready to testify, getting
22 her -- asking her any follow-up questions they had. She did
23 absolutely everything that she could to assist law
24 enforcement in the prosecution of the co-defendants.

25 Q. I should have started with this. I apologize.

1 If you could, back up a little bit.

2 Do you remember the facts and circumstances of
3 the offense itself?

4 A. Vaguely, shooting on Applegate.

5 Q. Do you remember what Ms. Pocopanni's
6 involvement was in that shooting?

7 A. I don't. The reason I don't is my file that I
8 had on her -- I think I told you this when I spoke with you.
9 When we moved offices, I don't have that file, but my
10 recollection is that, you know, she had absolutely no --
11 they did not tell her that they were going to do a driveby
12 shooting. She had no knowledge that they were going to do a
13 driveby shooting. There was no talk or evidence of a
14 robbery. You know, my understanding, if I recollect
15 correctly, the only thing she knew was that they needed to
16 borrow her car.

17 Q. Okay. So to kind of summarize again, I guess,
18 the murder stemmed from a driveby shooting. The shooting
19 occurred when the shooters were driving Ms. Pocopanni's
20 vehicle; is that correct?

21 A. Correct.

22 Q. Do you remember where she was in the car at
23 the time of the shooting?

24 A. If recollection serves, she was behind the
25 driver in the backseat, so she did not have control of the

1 vehicle.

2 Q. Do you remember whether or not she -- law
3 enforcement or the State in any way claimed that she
4 possessed a firearm at the time of the shooting?

5 A. She did not possess a firearm and -- no. She
6 did not.

7 Q. So was she charged as a principal to the
8 murders in this case?

9 A. She was.

10 Q. After she came into contact with law
11 enforcement, what time period were you retained?

12 A. I don't remember.

13 Q. Okay.

14 A. I'm sorry.

15 Q. But did you begin representing her during the
16 time that she was cooperating with law enforcement?

17 A. No. It was -- no. I don't remember that. I
18 think it was after she had been charged, but I could be
19 wrong on that. I'd have to look at the retainer contract
20 and, again, that's in the file I don't have.

21 Q. At the time that she testified against the
22 co-defendants, were you representing her at that time?

23 A. Not to my recollection. I don't think that
24 she -- you know, my recollection in -- you know, be it as it
25 is, was that she had never been told that she was going to

1 be facing charges, that she had been told, We're just -- we
2 just need you as a witness. Everything is fine, and that it
3 wasn't until later with the NAACP and Bill Eddins that she
4 ended up being arrested.

5 Q. Well, the NAACP, what do you mean by that?

6 A. So I was told by the assistant state attorney
7 that the NAACP had threatened to sue Bill Eddins and say
8 that he was a racist because he had prosecuted the black
9 co-defendants and had not prosecuted the white girl that was
10 in the car. So he -- they were -- so he then said she needs
11 to be arrested.

12 Q. So, ultimately, regardless of the particular
13 timing of it, once Ms. Pocopanni was arrested, were you
14 retained to be her lawyer for the upcoming trial?

15 A. Yes.

16 Q. Does it sound right that she was charged with
17 one count of second-degree murder and two counts of
18 attempted second-degree murder?

19 A. Yes.

20 Q. Was the State's theory a principal theory in
21 this case?

22 A. Yes.

23 Q. Do you remember what your defense was at
24 trial?

25 A. That she was not a principal because she had

1 no intent that the crime be committed.

2 Q. Did you get pretty personally involved in this
3 case?

4 A. Yes. I -- yes.

5 Q. Do you have strong feelings about the way the
6 case should have been resolved?

7 A. Yes.

8 Q. I apologize for being personal. Were you also
9 going through your own personal medical struggles at the
10 time or around the time of this case?

11 A. I had just completed -- I had just completed
12 chemo and radiation at that point.

13 Q. Do you remember a time when the State extended
14 a plea offer to you regarding your client?

15 A. Yes. It was -- it was -- I actually went back
16 to -- because I would e-mail all the discovery, the
17 transcripts, everything to her mother to give to her. So I
18 went back and I found that the plea offer was extended, if
19 I'm not mistaken, March of 2018, and Docket Day was May of
20 2018.

21 Q. What was the plea offer in this case?

22 A. And it was 25 years.

23 Q. Do you remember having a discussion with your
24 client and your client's mother regarding the plea offer?

25 A. Multiple times, yes.

1 Q. What was your discussion with them about the
2 plea offer?

3 A. That this was the plea offer and, quite
4 frankly, I thought it was a horrible plea offer in light of
5 how much she had sacrificed and how much assistance she had
6 provided to the State. I thought it was much -- and in
7 light of the fact that, you know, Melissa, at that point, if
8 I'm remembering correctly, she was nineteen. She had been
9 Baker Acted right before the shooting. She was -- if I'm
10 remembering correctly, she was Baker Acted after the
11 shooting. So she had some, you know, mental health
12 struggles, and that was all known by the State. So I
13 thought this was a very harsh plea offer that was extended.

14 Q. Did you say that to your client and her
15 mother?

16 A. I did.

17 Q. Did you make a recommendation about whether
18 she should or should not accept the plea offer?

19 A. I remember recommending "don't take it"
20 because, hopefully, we're going to get something better.

21 Q. Did you believe, based on all the facts of
22 this case that we've just discussed, that you had a good
23 chance of winning at trial?

24 A. That's a tough question because -- I can't
25 remember exactly what I was thinking at the time, so I can

1 only answer from this vantage point of looking at it, but
2 no. I don't think that it was a winner case, truthfully.

3 Q. Then why would you recommend not taking the
4 plea offer?

5 A. I know that I was -- and I kept pestering the
6 State for a better plea offer. I kept wanting a better plea
7 offer, something that was more commiserate with the amount
8 of sacrifice on her part and the low level, if any,
9 involvement on her part.

10 Q. Now, looking back on this -- again, I think
11 you've already mentioned that you were -- you got personally
12 involved in this case, in particular, maybe compared to some
13 others. Did you take sufficient time to explain to
14 Ms. Pocopanni what the principal theory meant and what the
15 theory of prosecution was going to be?

16 A. No. I don't think I did.

17 Q. And then, obviously, the case ultimately
18 proceeded to trial; is that correct?

19 A. It did.

20 Q. And the jury came back guilty on all counts?

21 A. It did.

22 Q. Do you remember the sentence that was imposed
23 by Judge Rimmer at the conclusion of the trial?

24 A. It was a life sentence.

25 MR. UFFERMAN: May I have a moment, Your

1 Honor?

2 THE COURT: Yes, sir.

3 MR. UFFERMAN: Thank you.

4 I have no further questions, Your Honor.

5 THE COURT: Thank you, sir.

6 Mr. Casey, you may cross-examine.

7 CROSS-EXAMINATION

8 BY MR. CASEY:

9 Q. Good morning.

10 A. Good morning.

11 Q. Ms. Cashwell, let me ask you, did you -- do
12 you recall ever discussing with the defendant the
13 possibility of entering a plea straight up in the case?

14 A. No. I don't have an independent recollection
15 of that.

16 Q. I guess, is it your, sort of, standard
17 practice in any of your criminal cases to lay out, you know,
18 the options between, you know, getting a plea offer from the
19 State, entering a straight-up plea to the Court, going to
20 trial? Do you have that, sort of, conversation typically
21 with your clients?

22 A. Normally, yes.

23 Q. Do you think, based on your standard practice,
24 you would have had, at some point in your representation of
25 the defendant, that conversation?

1 A. I honestly do not remember that. I don't
2 remember. I just -- I can't say that I did it in this case
3 because I don't have an independent memory of doing it in
4 this case.

5 Q. Okay. I know you testified just a little
6 while ago that you don't recall going over specifically with
7 your client the strength of the State's case?

8 A. I don't have an independent recollection of
9 that.

10 Q. But, again, you did indicate you -- you made
11 sure you provided all the discovery you received to your
12 client's mother?

13 A. Yes, and all the deposition transcripts,
14 everything, and that's standard practice. I always give
15 everything to my clients.

16 Q. Okay. And then would it be standard practice
17 then as well to, you know, go over those sort of things
18 after they've been provided with your client?

19 A. I know that we did go over some things, but as
20 I sit here now, I don't have an independent recollection of
21 what exactly we went over or when.

22 Q. And I guess, do you recall any feedback, so to
23 speak, that you would have been given from the defendant
24 regarding, you know, any of those discovery documents you
25 would have provided to her?

1 A. I don't recall anything. I don't recall.

2 Q. Would you have explained to her what the risks
3 was of going to trial, in other words, what she could
4 receive had -- you know, if she went to trial and lost?

5 A. That, I would have -- I don't have an
6 independent recollection, but that, I always cover, but I
7 think that the -- what I remember is, the main crux of the
8 conversations were always this 25-year offer is too severe
9 in light of all of the circumstances, and we need something
10 better on the table.

11 Q. Do you recall if your client ever had a
12 strong, you know, feeling that she wanted to go to trial on
13 her case?

14 A. No. I don't recall that.

15 Q. Did she seem, in your opinion, to understand,
16 you know, what was going on with her case while you were
17 conveying it to her?

18 A. I would say no. I would say no in this; that
19 on the most simplistic level, yes, but you've got to
20 remember is that she was -- and that's why her mom was
21 always involved. Usually, I do that when there's a young
22 person that's facing charges, either a guardian, a parent,
23 somebody -- somebody else, a mature adult that can sit there
24 with them during the meetings so they have, you know, a
25 second set of ears. I did that with Melissa because Melissa

1 was so young, and she hadn't had any experience with the
2 criminal justice system, and she had been, you know, Baker
3 Acted, and there were mental health concerns, plus the
4 stress of going through this. So her parents -- her father
5 and mother were with us, you know, if we had important
6 discussions, from my recollection.

7 Q. Again, you would not have rejected that
8 25-year offer from the State without first discussing it
9 with your client, correct?

10 A. Correct.

11 Q. Would it be fair to say that she ultimately
12 agreed with your strategy to decline the 25-year plea offer
13 in hopes of a better plea offer?

14 A. I would say -- I don't want to speak for her,
15 but I always defer to -- if my client tells me they want to
16 accept it, they accept it. If they don't, they don't and
17 did not accept it.

18 Q. Again, at the time that she -- did you convey
19 to her declination of the offer -- would you have explained
20 to her that she was potentially facing a life sentence?

21 A. I don't have an independent recollection of
22 that.

23 Q. Would it be fair to say that once you had seen
24 the charging document, would that have been something you
25 would have reviewed with your client?

1 A. And sent it. I mean, normally, I always send
2 the charging -- the Information to the client as well so
3 that they know what the charges are. Every piece of
4 paper -- what I tell my clients is, every piece of paper
5 that crosses my desk, 99 percent of the time is going to go
6 straight to them, you know, with exceptions. I think it's
7 like a DCF report or something of that nature.

8 Q. I know -- again, you testified a little while
9 ago that you said that you would not have considered this a
10 winner case. Again, do you recall -- just for the record,
11 that sounded -- maybe it's my DeFuniak coming out, like
12 "winter." It's "winner" case, W-I-N-N-E-R. Would you have
13 explained that at some point along the way to your client?

14 A. I don't have an independent recollection of
15 that.

16 Q. I guess, is it your standard practice when
17 you're preparing for trial to discuss with your client, you
18 know, what you think their chances are of getting an
19 acquittal?

20 A. I do, and I'm going to state candidly that in
21 this case -- because I was, I think, too personally
22 involved. I cared too -- I was -- I just really felt for
23 Melissa and her plight, that it may have affected my
24 communication. Does that make sense?

25 Q. Sure.

1 A. Yeah.

2 Q. Well -- and, again, I kind of want to touch on
3 that because, obviously, one of the allegations that's been
4 alleged is that you rendered ineffective assistance by
5 overstating the strength of the defendant's case in failing
6 to properly advise the defendant regarding the principal
7 theory, which resulted in the defendant rejecting a
8 favorable plea offer. So, again, I guess, you know, do you
9 feel the characterization of overstating the strength of the
10 defendant's case would have been accurate?

11 A. I think that's possible.

12 Q. Would it be fair to say that in your dealings
13 with the State in trying to negotiate the case that you kept
14 focusing on certain factors, such as, that when she was
15 contacted initially by law enforcement, she came clean, for
16 lack of better words, and that her involvement was clearly
17 the most minimal of the four charged defendants? Were
18 those, sort of, factors that you conveyed to the State?

19 A. Correct.

20 Q. And, again, in your discussions with your
21 client about the plea offer, would those have been factors
22 that you explained to her as what led to your recommendation
23 to reject the plea?

24 A. The fact that she had cooperated?

25 Q. From the very beginning.

1 A. That -- yeah. That there should be a better
2 plea offer on the table, yes.

3 Q. As you were preparing for trial with the
4 defendant, do you know if you would have indicated to her
5 that she had a chance for an acquittal?

6 A. I would have.

7 Q. Do you believe that she truly had a chance for
8 acquittal at trial?

9 A. The reason that I did was because there was no
10 evidence that -- the evidence was, is that when she drove up
11 to let them use the car, they shut up. They stopped talking
12 about whatever they were talking about, that there was no
13 communication to hide the fact that, you know, they were
14 going to go do something nefarious, bad, that when they got
15 in the car -- and I think they went to the gas station.
16 Again, there was no talk in front of Melissa about what they
17 were going to do, that they'd only known her for a week,
18 that, you know, she had no knowledge of this Facebook feud,
19 or whatever it was that started this, that there was no
20 testimony about any communication on the way to Applegate,
21 and then she's in the car in the backseat, and when these
22 guys start shooting out of windows, I just -- I can't -- how
23 would a nineteen-year-old say, Hi, Mr. Shooter, who's just
24 mowed down a bunch of people, now, I want my car back, get
25 out of the vehicle? You know, she did what a normal,

1 terrified person would do, which is, she sat there.

2 Even afterwards, I think there was some
3 communication with them when the police were surrounding her
4 or something, and I think she felt threatened at that point.
5 Despite that, when they first made communication -- or
6 contact with her, she, at personal risk to herself, right --
7 because she could have just said, I don't know anything. At
8 personal risk to herself, she said, Let me tell you who
9 these are, and she's opening up her Facebook, and she's
10 opening up whatever information she has to give to them.

11 Q. So based on your experience, you know, even if
12 there was some, I guess, legal weakness in arguing that she
13 was not a principal to the offenses, did you feel like,
14 because of those factors you've just outlined and maybe some
15 others you argued in the transcript as well, that there was
16 a chance that -- a jury nullification, at the very least?

17 A. Yes.

18 Q. Did you think her age was something that, as
19 well, was working for her and the fact that she had never
20 been in trouble, that I'm aware of, before?

21 A. I did.

22 Q. Was that, in fact, something you argued during
23 the closing?

24 A. If I recall correctly, yes.

25 Q. Let me just ask you, I guess, what is your

1 understanding of someone being charged legally as a
2 principal to the criminal offense, such as in this case, to
3 second-degree murder and two counts of attempted
4 second-degree murder?

5 A. That they did some word or -- either by word
6 or by act encouraged, incited, assisted somebody in
7 committing a criminal act.

8 Q. And did you feel --

9 A. And that they had an intent that that be done.

10 Q. A conscious intent, I believe?

11 A. A conscious intent that that be done.

12 Q. Did you feel that your client met that legal
13 definition in what she did in this case?

14 A. I did not.

15 Q. Is that what you argued to the jury?

16 A. I did. I don't think she knew -- you know, we
17 went back and forth on, you know, what does a sweet lick
18 mean? I don't think with her -- with her background, and
19 she only knew them a week. She didn't know what in the
20 world they were talking about. She was assuming. She was
21 guessing, but I don't think she ever had any true conscious
22 intent that this is what's going to happen, and I want to
23 help. I want to consciously help them do this bad act. I
24 don't think that was anywhere in Melissa's -- I mean, if I
25 remember correctly, she had -- it was her birthday. She had

1 gone to the beach. She was in a good mood. She didn't know
2 these people. She had no conscious intent to do anything
3 criminal.

4 Q. And, you know, would it sort of be fair to say
5 that your perception of the way she acted in this instance
6 was, you know, to sort of do whatever they wanted because
7 she enjoyed hanging out with them, smoking marijuana, having
8 sex with at least one of the co-defendants?

9 A. I don't -- I don't want to speculate as to
10 what she was thinking, but I don't -- one thing I can say,
11 based on discussions with her, is that she was not hanging
12 out with them in order to commit crimes or to be -- to
13 engage in criminal activity. I mean, she worked as a CNA.
14 She's not going to want to go out there and hurt people and
15 have people mowed down.

16 Q. Again, were these things that you touched on
17 during the trial?

18 A. Yes.

19 Q. Would it be fair to say that at the time you
20 felt like her going to trial and taking that risk was her
21 best option, considering the 25-year plea offer?

22 A. It must have been. In retrospect, it wasn't.

23 MR. CASEY: That's all I have, Your Honor.

24 THE COURT: Thank you, sir.

25 Mr. Ufferman, you may redirect.

1 MR. UFFERMAN: Thank you, Your Honor.

2 I'll be brief.

3 REDIRECT EXAMINATION

4 BY MR. UFFERMAN:

5 Q. Ms. Cashwell, I think you already indicated
6 that this case was personal to you and that you were
7 offended by the 25-year offer; is that right?

8 A. Yes.

9 Q. Is it possible, looking back, because of
10 your -- how close you were to this case and because of your
11 belief that 25 years was not a fair resolution of this case,
12 that you didn't spend as much time going over that 25-year
13 offer as you might have in all your other cases when you're
14 extending a plea offer to -- or talking about a plea offer
15 to a client?

16 A. Unfortunately, yes.

17 MR. UFFERMAN: Nothing further, Your Honor.

18 THE COURT: May this witness be released?

19 MR. UFFERMAN: Yes, Your Honor.

20 THE COURT: Mr. Casey?

21 MR. CASEY: Yes, Your Honor.

22 THE COURT: Ma'am, you're released.

23 MS. CASHWELL: Thank you.

24 MR. UFFERMAN: Your Honor, my next witness
25 will be my client.

1 THE COURT: Ma'am, if you'll please come to
2 the witness stand.

3 Please raise your right hand.

4 (Defendant sworn)

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Thank you. Please take a seat.

7 Mr. Ufferman, you may inquire.

8 MR. UFFERMAN: Thank you, Your Honor.

9 WHEREUPON, MELISSA POCOPANNI,
10 having been first duly sworn, was examined and testified as
11 follows:

12 DIRECT EXAMINATION

13 BY MR. UFFERMAN:

14 Q. Good morning.

15 A. Good morning.

16 Q. Will you please state your name for the
17 record?

18 A. Melissa Blair Pocopanni.

19 Q. And Ms. Pocopanni, are you the defendant in
20 this case that we're here about today?

21 A. Yes, sir.

22 Q. I know you've just heard your former trial
23 attorney testify. I won't belabor a lot of the background
24 facts that she covered. Let me just jump right to the point
25 when you first heard about a plea offer in this case.

1 At the time that you were first told about the
2 25-year plea offer, had you already cooperated with the
3 State at that point?

4 A. Yes, sir.

5 Q. Had you already testified against the
6 co-defendants at that point?

7 A. Yes, sir.

8 Q. So tell me, how did you first hear about the
9 25-year plea offer?

10 A. I was told about the 25-year plea offer by my
11 trial attorney, Patrece Cashwell.

12 Q. Were you alone, or were you with your parents
13 at the time?

14 A. I was with my parents.

15 Q. What did she tell you about the plea offer?

16 A. She told me that the State had came out with a
17 plea deal and that it was for 25 years, and she told me that
18 she felt like that plea deal was ridiculous.

19 Q. Did she make a recommendation that you should
20 not accept that plea offer?

21 A. Yes, sir. She said that she felt like we were
22 not going to get a conviction.

23 Q. Based on her recommendation to you, did you
24 reject the 25-year plea offer?

25 A. I did.

1 Q. How old were you at the time, in February of
2 2017, when these murders occurred?

3 A. I was nineteen-years-old.

4 Q. Had you ever been involved in the criminal
5 justice system before?

6 A. Never.

7 Q. What was your understanding at the time of the
8 plea offer of the principal theory, prosecution in the state
9 of Florida?

10 A. Little to none. I would say that I didn't
11 fully understand what the principal theory in criminal law
12 meant until I had already gotten to prison and went down to
13 the law library and did some research on my own.

14 Q. Were you aware throughout, prior to being
15 convicted, but either before trial or during trial, that the
16 State was trying to prosecute you, pursuant to a principal
17 theory?

18 A. Can you repeat the question?

19 Q. So prior to you -- prior to the jury coming
20 back with their guilty verdict, was it your understanding
21 that the State's basis of their prosecution was that you
22 were guilty as a principal?

23 A. (No audible response)

24 Q. Am I still -- I may not be asking that
25 question very well. Let me withdraw the question, and I'll

1 ask a different question.

2 Did you believe at the time that your actions
3 of loaning a car to those who were the shooters in this case
4 made you guilty of second-degree murder and attempted
5 second-degree murder?

6 A. No.

7 Q. After you got to prison and studied the
8 principal theory more, do you now believe that the State had
9 a viable prosecution against you because you were a
10 principal?

11 A. Yes.

12 Q. Did you know or understand that at the time
13 you rejected the 25-year plea deal?

14 A. No; I did not understand that.

15 Q. Did your attorney go over with you the
16 differences between someone who's the actual shooter and
17 someone who's being charged as a principal?

18 A. No.

19 Q. So let me ask you this. If you had known at
20 the time of the 25-year plea deal, that it was offered by
21 your attorney, if you had had a better understanding of the
22 principal theory, would you have accepted that plea offer?

23 A. Yes; I would have.

24 Q. So let's discuss that a little more. What
25 sentence were you facing if you went to trial and were

1 convicted and lost? What's the maximum sentence you were
2 facing?

3 A. Natural life.

4 Q. So 25 years is a long time. At the time of
5 the plea offer, you were nineteen, twenty-years-old.
6 Explain to the judge why it is that you would have taken 25
7 as opposed to risking getting life?

8 A. The reason I would have taken 25 years is
9 because it's -- I would have -- at least I would have had an
10 out date.

11 Q. An out date from prison?

12 A. (No audible response)

13 Q. You now have an out date.

14 A. I do.

15 Q. But for a while, you did not.

16 A. Yes, sir.

17 Q. Okay. You think had all this been explained
18 to you at the time that, you know, the State has a viable
19 principal theory against you, you loaned your car to them
20 that resulted in them being able to shoot -- but I think
21 some of the language that was used -- maybe even by Judge
22 Rimmer -- was, But for you giving them their car, there
23 would have been no murders.

24 A. Right.

25 Q. Now understanding that and realizing that

1 that's what it would take to have you convicted of murder
2 and that's what it would take to have you facing a life
3 sentence, would you have risked the life sentence, or would
4 you have taken the 25, knowing that you could get out?

5 A. I would have most definitely taken the 25.

6 Q. Let me ask you this. It sounds like you
7 were -- you were very fond of, and still are, fond of your
8 attorney.

9 A. Yes.

10 Q. Did you listen to her advice?

11 A. Yes. I was very scared, so I felt like --

12 Q. You trusted her.

13 A. Yes, I did.

14 Q. If she would have told you, I think we'll have
15 a hard time winning this case at trial; the principal
16 theory, based on these facts, is pretty easy for them to
17 prove; I think you should take the 25 years, what would you
18 have done?

19 A. I would have taken it.

20 Q. You would have followed her advice if that
21 would have been her advice?

22 A. Absolutely.

23 Q. But was that her advice?

24 A. No.

25 Q. Her advice was to reject the plea offer?

1 A. Yes.

2 Q. And because of her advice, that's why you
3 rejected the 25 years?

4 A. Yes, sir.

5 MR. UFFERMAN: No further questions, Your
6 Honor.

7 THE COURT: Thank you, sir.

8 Mr. Casey, you may cross-examine.

9 CROSS-EXAMINATION

10 BY MR. CASEY:

11 Q. Good morning.

12 A. Good morning.

13 Q. So Ms. Pocopanni -- am I pronouncing that
14 correctly?

15 A. Yes, sir.

16 Q. You had just testified that the reason you
17 would have accepted the 25-year offer at that time had you
18 known everything you know now is, At least I would have had
19 an out date, correct?

20 A. Yes, sir.

21 Q. If you had been offered a 40-year prison
22 sentence, you would have had an out date, correct?

23 A. I would have.

24 Q. So would you have accepted a 40-year plea
25 offer at the time?

1 A. I can't really say what I would have done if
2 it was 40 because it wasn't 40 and because -- I can't really
3 say what I would have done if it was 40 because I wasn't
4 really properly explained, but, yes, I probably would have,
5 honestly. If I would have been properly explained
6 everything regarding the principal theory, regarding they're
7 probably definitely going to get a conviction, I would have
8 taken 40 over natural life; that's for sure.

9 Q. Since you just made that last comment, isn't
10 it fair to say that, you know, obviously, since you were
11 originally given a life sentence, later reduced to 30 years,
12 30 years looked good compared to the life sentence, didn't
13 it?

14 A. It did.

15 Q. So 40 years would have looked good compared to
16 a life sentence, correct?

17 A. Yes, sir.

18 Q. And 25 years looks really good compared to a
19 life sentence, correct?

20 A. Yes, sir.

21 Q. So isn't it fair to say that -- you know, it's
22 a lot easier to say at this juncture, you would have
23 accepted the 25 years than it would have been back when you
24 were made the offer because at that time you had never been
25 in trouble before. You never served any jail time prior to

1 this incident, correct?

2 A. Yes, sir. That is correct.

3 Q. You never served any prison time prior to this
4 incident, had you?

5 A. No, sir. I had not.

6 Q. So when your attorney is explaining to you
7 that you can go to trial -- and because of all these factors
8 that you have going for you, the fact that you immediately
9 cooperated; your age; you didn't have a gun; you didn't fire
10 a gun; you didn't know exactly what they were going to do;
11 you were just in the backseat and couldn't really jump out
12 of the car in the middle of the shooting or even after the
13 shooting; that there were Facebook messages that you
14 indicated to one of your co-defendants that, I'm scared; the
15 police are here; I'm scared; I'm scared, repeatedly; and
16 then the fact that, you know, you were obviously scared of
17 these individuals because they had just shot and killed one
18 person and wounded two people -- so you were aware of all of
19 those positives at the time you went to trial, that
20 Ms. Cashwell was going to argue on your behalf to the jury,
21 correct?

22 A. Yes, sir.

23 Q. And at that time you believed you had an
24 opportunity to be acquitted, didn't you?

25 A. I did.

1 Q. What was your understanding of the principal
2 theory at the time before trial?

3 A. My understanding of the principal theory was
4 that I knew it was -- my understanding was that it would
5 mean that I had prior knowledge to -- I thought it was based
6 on knowledge. Do you get what I'm saying? I thought that
7 the principal theory was based on you knew what was going to
8 happen. That's why you gave them your car.

9 Q. And they had made the comment to you -- excuse
10 my language for the record -- that some hot shit was going
11 to occur. Do you recall that?

12 A. I do.

13 Q. And then, again, I think there was also the
14 language that a sweet lick was going to occur. Do you
15 recall that?

16 A. I do.

17 Q. So you knew that something, probably, criminal
18 was going to occur, correct?

19 A. Correct.

20 Q. But you didn't know exactly what was going to
21 happen?

22 A. I would say, based off of our previous
23 activities that we engaged in, we had never done anything
24 criminal before.

25 Q. You'd smoked marijuana, correct?

1 A. Yes, sir. We had smoked marijuana, but we had
2 definitely never like hurt anybody. Do you know what I'm
3 saying? Like that was not anything that we had ever done.

4 Q. And, again, you knew at the time you went to
5 trial that Ms. Cashwell was going to aggressively advocate
6 all of the strengths of your case, correct?

7 A. Yes, sir.

8 Q. And you agreed with her doing that, correct?

9 A. Yes, sir.

10 Q. You had the belief that you could be acquitted
11 at trial?

12 A. Yes, sir.

13 Q. At the end of the day, it was your choice to
14 decide to reject that plea, correct?

15 A. I almost feel like I don't remember making the
16 choice of saying, I don't want to take this plea deal. I
17 almost want to say that it was almost like -- we sat down in
18 her office, and she was basically just like, This plea deal
19 is ridiculous. Like, we're not taking this. This is -- no.
20 This is crazy.

21 Q. You understood at that time that Ms. Cashwell
22 was going to continue to work to try to get you a better
23 offer than that, correct?

24 A. I understood that there was some things that
25 were going on, as far as pushing for an acquittal, and I

1 understood that she strongly believed that we would not get
2 a conviction.

3 Q. Did she explain to you why she felt that way?

4 A. I don't remember.

5 Q. Again, all the factors that we've -- that I've
6 already laid out that you had going in your favor, the fact
7 that you cooperated, the fact that you testified at trial
8 against the three co-defendants and that those trials had
9 been successful, all these other factors, those were all
10 things you were aware of at the time the 25-year plea offer
11 was made, correct?

12 A. Can you repeat that? I'm sorry.

13 Q. The fact that you had cooperated when first
14 contacted by law enforcement, that you had testified against
15 the co-defendants and they had been successfully convicted,
16 you knew all of those things at the time the 25-year offer
17 was made, correct?

18 A. Yes. I knew, but I didn't really know or
19 understand that that had anything to do with like the offer.
20 Do you know what I'm saying? Like I didn't really -- I
21 mean, I knew, yeah. I knew that I had cooperated with the
22 police. I knew that I had helped them to get a conviction,
23 but it was almost like -- I remember when the police came
24 and picked me up, and my daddy just told me to just tell the
25 truth, so I did, and that's why I did that.

1 Q. Would it be fair to say that there was quite a
2 bit of time after you gave your statement to law enforcement
3 that you did not think you were going to be criminally
4 charged at all?

5 A. Yes.

6 Q. So would it be fair to say you were fairly
7 shocked when you were arrested for this case?

8 A. Oh, yeah, absolutely.

9 Q. And didn't that, in fact, play into the fact
10 that a 25-year offer seemed harsh, considering your
11 cooperation and considering you weren't initially arrested?

12 A. It was all very shocking.

13 Q. And it would seem harsh to you at the time,
14 wouldn't it?

15 A. Yes, sir.

16 Q. It was certainly your hope that you would
17 never be charged in this case, correct?

18 A. Yes, sir.

19 Q. Is that what you thought for quite a while
20 after you cooperated, is that you would not be charged?

21 A. Yes.

22 Q. So having been aware of all of those things,
23 and despite that, as you sit here today, you're saying had
24 the principal theory been more fully explained to you, even
25 though you thought you would never be charged for these

1 offenses, you would have accepted the 25-year plea offer?

2 A. If I knew then what I know now, I would have
3 accepted that plea deal.

4 Q. What do you know now that's different?

5 A. What I know now is that the principal theory
6 has nothing to do with whether you knew what those boys were
7 going to do or not. What I know now is that if you take it
8 to trial and you lose, you will get a maximum penalty. If I
9 would have known those two things, I would have accepted
10 that 25-year plea deal.

11 Q. But you understand that it wasn't required
12 that you get a life sentence. Do you understand that?

13 A. But from like my experience now, like being in
14 prison and talking to other people that have gone to trial,
15 it's pretty much like a general rule we say in the prison.
16 Like if you take it to trial, for some reason you lose,
17 they're going to max you out. That's just what's going to
18 happen. You're going to get the maximum penalty they can
19 give you. If you go to trial and you lose, you're going to
20 get maxed out.

21 Q. Did you understand at the time you went to
22 trial that you could receive a life sentence?

23 A. I don't think that I -- no. I don't think I
24 understood that because Patrece kept telling me that I was
25 not going to go to prison.

1 Q. Again, you've heard Ms. Cashwell testify this
2 morning that she would have sent, you know, not only all the
3 discovery documents to -- again, I believe it was your
4 mother -- to go over with you or for you to have, but she
5 would have also sent the charging document to you. Do you
6 recall receiving or looking at the charging document?

7 A. I don't recall.

8 Q. Do you recall Ms. Cashwell at any time going
9 over, you know, what the maximum penalties were for the
10 offenses you were charged with?

11 A. (No audible response)

12 Q. Is that a no?

13 A. That's a no, sir.

14 Q. Again, the reason why I ask is, it has to
15 be --

16 A. I'm sorry. I forgot.

17 Q. It has to be recorded. Thank you.

18 Do you recall receiving in writing the plea
19 offer from the State?

20 A. I do not.

21 Q. If Ms. Cashwell has records indicating that
22 she put that in paper, would you have any doubt that those
23 are legitimate?

24 A. (No audible response)

25 Q. In other words, that she sent you that offer

1 in writing.

2 A. I don't doubt that she sent it to me, but
3 that's just not how I, like, heard -- that's just not how
4 I -- I don't remember seeing, like, a piece of paper that
5 says, like, this is what the State is offering you. I just
6 remember sitting in her office and being told, like, The
7 State is offering you 25 years, and that's the most
8 ridiculous thing I've ever heard.

9 Q. Did you agree with her that it was ridiculous?

10 A. Back then I did.

11 Q. Did you ever question Ms. Cashwell when she
12 said that the State was not going to get a conviction?

13 A. I never questioned her at all.

14 Q. Did you discuss the plea offer with your
15 family?

16 A. I don't think so.

17 Q. Did you get any or ask for any feedback from
18 your family about whether to accept the plea offer?

19 A. I didn't.

20 Q. Why not?

21 A. Because Patrece told me that it was
22 ridiculous, so I was just going based off what she said.

23 Q. And, again, considering you thought you would
24 never be charged for these offenses, didn't it seem
25 ridiculous to you at the time?

1 A. Did what seem ridiculous to me?

2 Q. The 25-year offer.

3 A. The 25-year offer seemed harsh to me at the
4 time because I didn't understand what the principal theory
5 was in the criminal law, the definition of the principal
6 theory. My definition of the principal theory understanding
7 was not clear at all.

8 Q. So it didn't seem harsh to you because of the
9 fact that you thought you were never going to be charged for
10 these offenses?

11 A. No. It seemed harsh because I felt like I was
12 not guilty. So I felt, why would I take this plea deal when
13 my lawyer is telling me that we can go to trial and that I
14 can get a not guilty, you know?

15 Q. And you felt not guilty because you didn't
16 know what your three co-defendants were actually going to
17 do?

18 A. Correct.

19 Q. And you didn't have a firearm?

20 A. Correct.

21 Q. And you didn't intend to hurt anyone?

22 A. Correct.

23 Q. And those were all things that your attorney
24 argued at your trial, correct?

25 A. Correct.

1 Q. Was there anything she didn't argue at the
2 trial that you asked her to argue or wanted her to argue on
3 your behalf?

4 A. I would say that there were a few things, but
5 it was because we were -- if I remember correctly, it was
6 because we were told that we couldn't bring certain things
7 up, like the whole NAACP thing. I remember them telling us,
8 Well, the NAACP is not the one that's on trial, but I felt
9 like that was a big thing. I was like, Can we bring up the
10 fact that they didn't even want to arrest me until the NAACP
11 threatened Bill Eddins? I was not facing charges until the
12 NAACP came out with a threat.

13 Q. And it's your feeling that if not for that,
14 you wouldn't have been charged?

15 A. I believe -- yes. I believe that if the NAACP
16 would have never said anything in that nature, they probably
17 would not have charged me.

18 Q. And, again, considering that fact, that also
19 caused the 25-year offer to be very harsh to you, didn't it?

20 A. Yes.

21 MR. CASEY: That's all I have, Your Honor.

22 THE COURT: Thank you, sir.

23 Mr. Ufferman, you may redirect.

24 MR. UFFERMAN: Thank you, Your Honor.

25 REDIRECT EXAMINATION

1 BY MR. UFFERMAN:

2 Q. Let me ask you about what goes through your
3 mind when considering a plea offer as to whether or not you
4 potentially would accept it or not. If you had been offered
5 a life sentence as a plea offer, would you have accepted
6 that?

7 A. No.

8 Q. Because you would never get out of prison with
9 a life sentence?

10 A. Well, because that's the worst thing --
11 really, the worst thing that they could have given me. So
12 if they would have offered me a life sentence, I would have
13 felt like, well, I might as well take my chances.

14 Q. Good answer.

15 So then let me -- is it part of your
16 calculation when determining whether you would accept the
17 plea offer or not, life expectancy -- you know, if I accept
18 this offer, at what point in my life would I be released
19 from prison?

20 A. Yes.

21 Q. So 25, putting aside whether you would or
22 would not get gain time, you know, that -- you do the math
23 if you're okay doing the math. That would have you out of
24 prison at -- roughly, you're what, in your --

25 A. Thirteen more years. My mom says that if I

1 get all my gain time --

2 Q. Well, not even -- let me go back to like at
3 the time. So at the time, you're nineteen,
4 twenty-years-old, and you're being offered a 20-year
5 offer -- I'm sorry -- a 25-year offer, in your mind you'd
6 have to think, I'm going to get out of prison when I'm going
7 to be in my forties, early forties?

8 A. Right.

9 Q. If you're offered a 40-year offer, as
10 Mr. Casey was referring to, that's 15 more years on top of
11 that?

12 A. Right.

13 Q. For some type of perspective, do you
14 remember -- is it correct that at the time of all this, your
15 mother was in her mid -- or early fifties?

16 A. Yes.

17 Q. Could you use that as like a comparison to
18 think, okay. If I accepted a 25-year offer, I'm going to
19 get out of prison even younger than what my mother is now?

20 A. Yes.

21 Q. Did you still think your mother at that time
22 had years of life in front of her?

23 A. Yes.

24 Q. But the greater the number would become, the
25 less likely that it would be that you'd want to accept an

1 offer, right, because then that's the older you are when
2 you're getting out of prison?

3 A. Correct.

4 Q. Is that -- was that part of your calculation
5 in thinking about, you know, had this been properly
6 explained to me, this is why I would have, potentially,
7 taken 25, because you would have been out in your early
8 forties?

9 A. Yes, sir.

10 MR. UFFERMAN: No further questions, Your
11 Honor.

12 THE COURT: Ms. Pocopanni, you can return to
13 your seat.

14 THE DEFENDANT: Thank you.

15 MR. UFFERMAN: Your Honor, our last witness is
16 my client's mother, Cindy Pocopanni.

17 THE COURT: Ma'am, if you'll please come to
18 the witness stand.

19 Please raise your right hand.

20 (Witness sworn)

21 THE WITNESS: Yes, I do.

22 THE COURT: Thank you. Please take a seat.

23 Mr. Ufferman, you may inquire.

24 MR. UFFERMAN: Thank you, Your Honor.

25 WHEREUPON, CINDY POCOPANNI,

1 having been first duly sworn, was examined and testified as
2 follows:

3 DIRECT EXAMINATION

4 BY MR. UFFERMAN:

5 Q. Good morning.

6 A. Good morning.

7 Q. Will you please state your name for the
8 record?

9 A. Uh-huh, Cindy Pocopanni.

10 Q. How do you spell your first name?

11 A. C-I-N-D-Y.

12 Q. How are you related to the defendant in this
13 case?

14 A. I'm her mother.

15 Q. Do you remember when she was involved in the
16 February, 2017, shooting incident?

17 A. Yes.

18 Q. Were you involved shortly thereafter, after --
19 were you involved in her dealings with law enforcement and
20 attorneys and the State of Florida after the incident
21 occurred?

22 A. Yes, very much.

23 Q. Tell me about that.

24 A. So any kind of meeting that was held with
25 Patrece once we obtained Patrece in April of 2017 -- the

1 crime happened in February of 2017. When Melissa was
2 arrested in April, then we elected for Patrece to be her
3 attorney. If we had any sort of meeting, it was always
4 Melissa and myself and my late husband. Melissa did not
5 have a cell phone at that time, so any telephone calls that
6 came in, came in to me.

7 Q. Why didn't she have a cell phone?

8 A. I believe the Milton Police Department had her
9 phone at that point.

10 Q. As part of their investigation in this case?

11 A. Yes.

12 Q. To your knowledge, were you present during all
13 or almost all of the meetings between Ms. Cashwell and your
14 daughter?

15 A. I was present in all of them except at
16 Patrece's office whenever Melissa met with Amy Shea to go
17 over her being the witness in the co-defendants' trial. I
18 did not go in the office. I sat in the waiting room.

19 Q. So the phone calls that Ms. Cashwell would
20 make to update either you or your daughter, those phone
21 calls would be made to your phone?

22 A. Yes.

23 Q. And then communications that were sent
24 electronically, such as discovery documents or other things,
25 how did you receive those?

1 A. To my e-mail.

2 Q. Tell me about your daughter's mental ability
3 at the time. Would you say that she was extremely
4 developed, from a maturity standpoint, from a common sense
5 standpoint in understanding things?

6 A. At that point, no. It's already been
7 mentioned that right after the crime, she was Baker Acted,
8 and then when she was arrested, she was granted bond. She
9 had to be with me or her dad at all times. My husband was
10 retired, so he was home with her during the day, and she
11 didn't go anywhere without us. She relied heavily on our
12 opinions.

13 Q. Do you think she had a good understanding of
14 the legal system?

15 A. No.

16 Q. Do you remember a time when there was a
17 communication from Ms. Cashwell regarding a plea offer?

18 A. Yes.

19 Q. What was that communication from Ms. Cashwell?

20 A. Just that the State had offered 25 years, and
21 we weren't taking it. There was no discussion after that
22 about it.

23 Q. Do you believe that if there had been more
24 explanation about the plea offer, more explanation about the
25 strengths of the State's case and what it means to convict

1 someone as a principal, that if all that had been properly
2 explained to both you and your daughter, that she would have
3 taken the 25 years?

4 A. Yes.

5 Q. Even -- I know the prosecutor has already
6 talked about, you know, up until that point, she didn't
7 think she was going to be charged, and everyone thought that
8 was harsh. But why would she take 25 years in light of all
9 those things?

10 MR. CASEY: I object to speculation.

11 THE COURT: Sustained.

12 MR. UFFERMAN: No further questions, Your
13 Honor.

14 THE COURT: Mr. Casey, you may cross-exam.

15 CROSS-EXAMINATION

16 BY MR. CASEY:

17 Q. Hi there.

18 A. Hi.

19 Q. How are you doing?

20 A. Good.

21 Q. Let me ask you, did it come to you and your
22 family as quite a shock when your daughter was arrested?

23 A. Yes. We weren't expecting it because we were
24 told by Detective Mistovich, as long as Melissa was telling
25 the truth, she would not be arrested.

1 Q. So, ultimately, when you were -- when you
2 learned of the 25-year state prison offer, did that not seem
3 quite harsh, considering your understanding that your
4 daughter would likely never be charged?

5 A. Yes. It seemed harsh.

6 Q. Do you recall if you ever would have discussed
7 the offer with your daughter?

8 A. We did not discuss the offer. We never had a
9 meeting with Patrece to say, This is what you're looking at.
10 This is the possibilities, the pros and cons of it, to give
11 Melissa advice on what we felt like she should do. None of
12 that was ever discussed.

13 Q. At least when you were present.

14 A. Correct.

15 MR. CASEY: That's all I have, Your Honor.

16 THE COURT: Thank you, sir.

17 Mr. Ufferman, you may redirect.

18 MR. UFFERMAN: No redirect, Your Honor.

19 THE COURT: Ma'am, you can return to your
20 seat.

21 THE WITNESS: Thank you.

22 MR. UFFERMAN: Your Honor, at this time the
23 Defense rests.

24 THE COURT: Mr. Casey, does the State have any
25 witnesses?

1 MR. CASEY: Your Honor, I would like to recall
2 Ms. Cashwell briefly.

3 THE COURT: Yes, sir.

4 Ma'am, you remain under oath. Please have a
5 seat.

6 THE WITNESS: Thank you.

7 THE COURT: Mr. Casey, you may inquire.

8 MR. CASEY: Thank you, Your Honor.

9 WHEREUPON, PATRECE CASHWELL,
10 having been first duly sworn, was examined and testified as
11 follows:

12 DIRECT EXAMINATION

13 BY MR. CASEY:

14 Q. Ms. Cashwell, I know, obviously, you heard me
15 ask Ms. Pocopanni about a letter that you sent. Can you
16 explain to the Court what I was referring to?

17 A. Yes. I went back -- so I searched all the
18 e-mails that I sent to Ms. Pocopanni, and on March 14 of
19 2018, I sent a letter to Melissa saying, Enclosed, please
20 find the sentence recommendation/plea offer in Case No.
21 2017-CF-669. I am not encouraging or recommending that you
22 accept the offer of the State, but I am ethically obligated
23 to convey any and all plea offers immediately upon receipt.
24 Our next court dates are May 8 at 9 a.m. for Docket Day and
25 May 21 for Jury Selection, and then the plea offer was

1 included in that. The written plea offer was included in
2 that -- in that letter.

3 Q. Was that offer on, sort of, the standard form
4 utilized -- plea form utilized at the time?

5 A. It was, where it states what the charges were,
6 the maximum, the fine, any mandatory sentence, a plea of
7 guilty and then what the sentence recommendation is.

8 Q. Do you recall, you know, whose e-mail that
9 would have been sent to?

10 A. Yeah. I've got the records right here. It
11 was sent to jpcpmel@aol.com, and that was Cindy Pocopanni.

12 Q. And then, obviously, you've heard the
13 testimony as well a moment ago. Do you recall ever going
14 over the plea offer with the defendant and/or her family?

15 A. I do recall speaking about the plea offer on
16 different occasions with Ms. Pocopanni and with Melissa;
17 however, I also do remember that I would say things like,
18 This is a ridiculous plea offer, okay? So we talked about
19 it, but then it was also -- in that same meeting, it was
20 dismissed.

21 MR. CASEY: That's all I have, Your Honor.

22 THE COURT: Mr. Ufferman, you may cross-exam.

23 MR. UFFERMAN: No cross-examination, Your
24 Honor.

25 THE COURT: Does either side want that

1 exhibit -- or that document admitted that she's talking
2 about?

3 MR. UFFERMAN: I don't.

4 MR. CASEY: Yeah. I'm not going to ask for it
5 as well, Your Honor.

6 THE COURT: Okay. I just know she was looking
7 at it.

8 MR. CASEY: Right; right.

9 THE COURT: Thank you, ma'am. You can return
10 to your seat.

11 Any other witnesses for the State?

12 MR. CASEY: No, Your Honor. The State rests.

13 THE COURT: Thank you, sir.

14 Mr. Ufferman, I'll hear your argument.

15 MR. UFFERMAN: Thank you, Your Honor.

16 May it please the Court.

17 Your Honor, this is -- I think this is an
18 extremely tough case, and I don't love standing here
19 arguing that Ms. Cashwell was ineffective. Again,
20 she's a colleague that I've known for many years. I
21 will say that I quote from an Eleventh Circuit Court of
22 Appeals case in many of my briefs that says, Even the
23 best lawyer can have a bad day, and I'll acknowledge
24 that, you know, I'm certainly not perfect. I've made
25 mistakes.

1 I just recently, without going into the
2 details, had to file a belated appeal in a case that
3 was pending on direct appeal, that there was a 3.850
4 that was being considered at the same time, and I
5 wasn't -- I had no idea that a second notice of appeal
6 would have to be filed under such circumstances.
7 Fortunately, our rules allow for a belated appeal when
8 the original time period is missed, and I acknowledged
9 my mistake and immediately turned around and filed a
10 petition for belated appeal and, as is allowed under
11 the rule, explained that it was my mistake. No one is
12 perfect. We all make mistakes.

13 As good of a lawyer as Ms. Cashwell is, I do
14 think -- I think by her own admission even today, she
15 made a mistake when it comes to the 25-year plea offer
16 in this case. There are a lot of reasons why I can
17 understand why she would be frustrated with a 25-year
18 plea deal after everything that her client/my client
19 had gone through.

20 You know, putting aside the NAACP issue, you
21 know, generally, when someone provides substantial
22 assistance to the extent that my client did, that
23 substantial assistance would be honored in a better way
24 than what was being offered by the State in this case.
25 I mean, as Mr. Casey was already saying, there was a

1 hope that she, maybe, wasn't even going to be charged
2 and, of course, yes, without question -- you know, the
3 question was asked numerous times. Of course, there
4 was frustration when she ultimately was charged if
5 there was a hope that, Look, if you do all this for the
6 State, that you won't -- perhaps, won't even be
7 charged, but the reality is, she was charged.

8 Once she's charged with three offenses, one
9 being a count of second-degree murder that carries a
10 maximum life sentence, and then two counts of attempted
11 second-degree murder where the State is clearly
12 pursuing a principal theory as to her involvement, an
13 attorney has an obligation when going over a plea offer
14 to do a little more than was done in this case. Again,
15 I understand why it wasn't done, and I understand that
16 it was personal, and I can see how that would happen,
17 but I think you can see, perhaps, today from my client
18 being on the stand and, certainly, it's been testified
19 to a little bit by my client's mother and Ms. Cashwell
20 that my client was very young. I think she was
21 extremely immature, and I don't think there's any doubt
22 that she had very little understanding of the criminal
23 justice system.

24 There's lawyers today that don't have a good
25 understanding of the principal theory, that it's -- I

1 read them in briefs that I -- or in records that I
2 review for appellate cases that I'm working on that
3 it's not always easy to understand, No. 1, if you're a
4 principal, you're just as guilty as the person that
5 pulled the trigger, and it's not as easy to understand
6 that it doesn't take a lot to be a principal. It
7 doesn't require that you had knowledge ahead of time
8 that they were going to do the shooting; if you had
9 knowledge that they were going to -- potentially going
10 to engage in some type of criminal activity, and they
11 wanted to use your car to do so.

12 I think Judge Rimmer said it best, and this is
13 a quote from page 626 of the record. "She indicated in
14 her statements, as I recall, that they always had guns,
15 and she got in the car. She actually loaned them her
16 car, which I think is very significant, because without
17 the car, there would be no crime; no car, no crime, no
18 murder."

19 Judge Rimmer was summing it up. That could
20 have been the State's closing argument. I think it may
21 have been the State's closing argument at some point.
22 Without the car, no murder. She's guilty as a
23 principal.

24 It's a pretty straightforward prosecution,
25 and, boy, it was easy to get all of her -- they didn't

1 have to gather her statements or work hard to get them.
2 She provided them. From day one, she said everything
3 voluntarily to law enforcement. She testified in two
4 other trials at that point, maybe three other trials at
5 that point, and so her involvement -- everything she
6 knew was on the record numerous times, sworn testimony.
7 So going into this case, it was clear cut what the
8 State was going to be able to rely upon and what they
9 were going to be able to argue to the jury as to why
10 she's guilty as a principal.

11 She was looking at a maximum sentence of life
12 if convicted of these three charges, obviously, the
13 most significant being second-degree murder. This is a
14 high profile case in this community. You know, yes,
15 was a life sentence mandatory? Of course not; but is a
16 life sentence certainly a good possibility in light of
17 the facts of this case, in light of the sentencing
18 judge that you're dealing with? These are all things
19 that would need to be discussed because she was looking
20 at that life sentence if this case isn't resolved some
21 way. Even a straight-up plea -- you know, again, the
22 judge still has the ability to give a life sentence.
23 So the only way she could guarantee she's not facing
24 life is a plea offer from the State that -- I'm just
25 remembering something.

1 Can I have one moment, Your Honor?

2 THE COURT: Yes, sir.

3 MR. UFFERMAN: Your Honor, there is one
4 point -- and maybe we can even do it by stipulation,
5 and I apologize. I needed to ask Ms. Cashwell, was she
6 familiar with Judge Rimmer? Had she practiced before
7 him, and was it likely that if the parties came to him
8 with a 25-year plea deal, that it's her belief he would
9 have accepted that? Mr. Casey and I both talked to her
10 about that, and that was going to be her testimony. I
11 would either like to stop real quick and recall her to
12 put that on the record or, perhaps, we can stipulate to
13 what I just said would be her testimony in that regard.

14 THE COURT: Mr. Casey, what's the State's
15 position?

16 MR. CASEY: I have no objection to either,
17 Your Honor. Again, I was present this morning with
18 Ms. Cashwell and Mr. Ufferman when he asked her those
19 questions, and those were her answers.

20 THE COURT: All right. Ms. Cashwell, if
21 you'll return to the witness stand, please.

22 THE WITNESS: Yes, Your Honor.

23 MR. UFFERMAN: Thank you, Your Honor. I
24 apologize.

25 THE COURT: Again, you remain under oath.

1 Please have a seat.

2 THE WITNESS: Yes, Your Honor.

3 THE COURT: Mr. Ufferman, you may inquire.

4 MR. UFFERMAN: Thank you.

5 WHEREUPON, PATRECE CASHWELL,
6 having been previously sworn, was examined and testified as
7 follows:

8 DIRECT EXAMINATION

9 BY MR. UFFERMAN:

10 Q. Ms. Cashwell, I'm sorry to call you back up.
11 There's something I forgot to ask you.

12 Remind me, how long have you been practicing
13 in the First Circuit?

14 A. Since 1998.

15 Q. Have you appeared in front of Judge Rimmer
16 during the time that you have been practicing in that time
17 period?

18 A. Yes.

19 Q. Is it your belief that, in a case involving a
20 client who has provided substantial assistance to the State,
21 that if the State and the Defense had approached any judge
22 in the circuit or, in particular, Judge Rimmer in this case
23 and said, We've agreed to a 25-year deal, do you have any
24 reason to believe Judge Rimmer would have rejected that
25 deal?

1 A. No. He would have -- I believe he would have
2 accepted it.

3 MR. UFFERMAN: Thank you.

4 No further questions, Your Honor.

5 THE COURT: Mr. Casey, you may cross-exam.

6 MR. CASEY: If I can have just one moment,
7 Your Honor?

8 Actually, no further -- no questions, Your
9 Honor.

10 THE COURT: Thank you, Ms. Cashwell. You may
11 return to your seat.

12 THE WITNESS: Thank you.

13 MR. UFFERMAN: I apologize, Your Honor.

14 THE COURT: That's all right, sir. You can
15 resume your argument.

16 MR. UFFERMAN: Thank you.

17 So once she is charged and she is looking at a
18 life sentence, certainly, on that second-degree murder
19 count, things changed. So there may have been a hope
20 that she wouldn't be charged. There may have been a
21 lot of frustration once she was charged, but that's
22 irrelevant at that point. You need to -- any Defense
23 attorney needs to move forward and say, Okay. This is
24 what we're now dealing with, and as I was -- I think I
25 was saying when I realized my mistake, the only way to