

IN THE
TWENTIETH JUDICIAL CIRCUIT COURT
CHARLOTTE COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

v.

SHAHZAD SAYED,

Defendant.

Case No. 2020-CF-1910

ORDER GRANTING MOTION FOR REDUCTION OF SENTENCE

THIS CAUSE comes before the Court on the Defendant's timely Florida Rule of Criminal Procedure 3.800(c) "Motion for Reduction/Modification of Sentence" filed on May 26, 2026. The matter was set for a hearing on July 29, 2026. Having reviewed the motion, the court file, the evidence and arguments presented during the July 29, 2026, hearing, and the applicable law, it is hereby, **ORDERED AND ADJUDGED** as follows:

1. On December 23, 2020, Defendant was charged by information with the following: aggravated manslaughter of a child (Count 1), two counts of child neglect (Count 2 and Count 3), possession of a place with knowledge of manufacturing a controlled substance with a minor present or residing therein (Count 4), possession of a controlled substance (Count 5), possession of cannabis – over 20 grams (Count 6), and possession of paraphernalia (Count 7). The victim of the Count 1 offense was the Defendant's 19-month-old son – who fell into the family pool and drowned. On May 17, 2022, the Defendant entered into an agreement with the State that provided that the Defendant may enter an open plea as to Count 1, and if accepted by the Court, the State would enter a Nolle Prosequi as to Counts 2 through 7. The Defendant's imposed sentence was

not part of the agreement. On September 19, 2022, the Court accepted the Defendant's open no contest plea, and the Defendant was sentenced on that date. At the conclusion of the sentencing hearing, the Defendant was sentenced to serve 13 years in prison (the lowest permissible sentence set forth on the Criminal Punishment Code scoresheet) followed by 2 years of community control and 3 years of probation.

2. In his rule 3.800(c) motion, the Defendant requests the Court to grant a downward departure sentence. In *Banks v. State*, 732 So. 2d 1065, 1067-1068 (Fla. 1999), the Florida Supreme Court established the following test for considering a motion for downward departure:

A trial court's decision whether to depart from the guidelines is a two-part process. First, the court must determine whether it can depart, i.e., whether there is a valid legal ground and adequate factual support for that ground in the case pending before it (step 1). Legal grounds are set forth in case law and statute, and facts supporting the ground must be proved at trial by "a preponderance of the evidence." This aspect of the court's decision to depart is a mixed question of law and fact and will be sustained on review if the court applied the right rule of law and if competent substantial evidence supports its ruling. Competent substantial evidence is tantamount to legally sufficient evidence, and the appellate court will assess the record evidence for its sufficiency only, not its weight.

Second, where the step 1 requirements are met, the trial court further must determine whether it should depart, i.e., whether departure is indeed the best sentencing option for the defendant in the pending case. In making this determination (step 2), the court must weigh the totality of the circumstances in the case, including aggravating and mitigating factors. This second aspect of the decision to depart is a judgment call within the sound discretion of the court and will be sustained on review absent an abuse of discretion. Discretion is abused only where no reasonable person would agree with the trial court's decision.

(Footnotes omitted) (emphasis added).

3. In his rule 3.800(c) motion, the Defendant requests a downward departure sentence pursuant to section 921.0026(2)(d), Florida Statutes (i.e., "The defendant requires specialized treatment for a mental disorder that is unrelated to substance abuse or addiction or for a physical disability, and the defendant is amenable to treatment."). During the July 29, 2026, hearing, the Defendant presented the testimony of Dr. Heather Holmes, Psy.D. – a forensic psychologist. Dr. Holmes testified that she conducted an evaluation of the Defendant and, based on her evaluation,

she opined that the Defendant suffers from “Generalized Anxiety Disorder” and “Post-Traumatic Stress Disorder, by history” – and she stated that both disorders are unrelated to substance abuse or addiction. Dr. Holmes testified that the Defendant’s “Post-Traumatic Stress Disorder” relates to the death of the Defendant’s son, but she stated that the Defendant’s “Generalized Anxiety Disorder” predates the offense in this case – i.e., she said that the Defendant’s “Generalized Anxiety Disorder” relates the death of the Defendant’s father in 2017 when the Defendant was in his early twenties (and she explained that prior to his death, the Defendant was his father’s primary caregiver after he was diagnosed with cancer). Dr. Holmes testified that the Defendant requires specialized treatment for his mental health disorders – specifically EMDR¹ therapy, grief therapy, and participation in a support group for parents who have lost a child. Finally, Dr. Holmes opined that the Defendant is amenable to treatment (i.e., she said that there is a reasonable possibility that the treatment would be successful). During the July 29, 2026, hearing, the State did not dispute that Dr. Holmes’ testimony satisfied the requirements of section 921.0026(2)(d).

4. Applying the *Banks* standard to the Defendant’s request for a downward departure sentence, the Court is first required to consider “whether there is a valid legal ground [for a downward departure] and adequate factual support for that ground in the case pending before it.” Based on Dr. Holmes unrefuted testimony during the July 29, 2026, hearing, the Court finds that the Defendant proved the requirements of section 921.0026(2)(d) by “a preponderance of the evidence.”

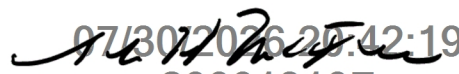
5. After reaching this conclusion, the *Banks* standard next requires the Court to consider “whether it should depart, i.e., whether departure is indeed the best sentencing option for the Defendant in the pending case.” In making this determination in the instant case, the Court has weighed the totality of the circumstances in the case, including aggravating and mitigating

¹ Eye Movement Desensitization and Reprocessing.
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factors. For all of the reasons stated by the Court on the record at the conclusion of the July 29, 2026, hearing, the Court finds that a departure *is* the best sentencing option for the Defendant.

6. Accordingly, the Defendant's rule 3.800(c) motion is **GRANTED**. **The Clerk is directed to prepare an amended judgment and sentence in this case reflecting the following.** The prison sentence for count 1 is four (4) years, and the Defendant is entitled to all credit for time served and any eligible gain-time. Following the incarcerative portion of the sentence, the Defendant shall serve two (2) years on community control followed by five (5) years of probation. As a condition of supervision, the Defendant shall sign up for and complete EMDR therapy. He must sign up for and attend the first EMDR session within 60 days of his release from incarceration. The Defendant is also ordered to attend grief therapy with a mental health therapist one day per week for the duration of his supervision, He must sign up for and attend the first session of grief therapy within 60 days of his release from incarceration. Finally, the Defendant is also ordered to participate in a support group for parents who have lost a child, he must attend the support group sessions once per month. He must sign up for and attend the first support group session within 60 days of his release from incarceration. The Defendant shall pay \$50 per month, plus \$2 surcharge for the cost of supervision (for both the term of community control and the term of probation). All other terms and conditions of the sentence – including the applicable court costs – remain the same. The Court reserves jurisdiction on any costs of investigation that were incurred as a result of the Defendant's transportation to the June 29, 2026, hearing.

DONE AND ORDERED in Charlotte County, Florida on the date affixed to the signature below.


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Shannon H. McFee, Circuit Court Judge QGW3f2YL 20001910F
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Electronic Service List:

Michael Ufferman <ufferman@uffermanlaw.com>, <audra@uffermanlaw.com>, <e-service@uffermanlaw.com>

State Attorney 20th Circuit <eService@sao20.org>