Filing # 258742883 E-Filed 10/07/2026 09:36:07 PM

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT IN AND FOR PINELLAS COUNTY, FLORIDA

STATE OF FLORIDA **Case No: 23-02935-CF**

v.

TOMASZ KOSOWSKI/
Defendant

INDEPENDENT SPECIAL COUNSEL'S SENTENCING MEMORANDUM

Comes now, Independent Special Counsel John Nohlgren, Esq, who submits this Memorandum in support of the Defendant's sentencing. On August 6, 2026, the Defendant requested to represent himself and the Court granted said request after conducting a *Faretta* hearing. During the *Faretta* and subsequent hearings, the Defendant expressed that, if he was convicted as charged, he would not be presenting any mitigation during the Penalty Phase proceedings of the trial. Given the Defendant's expressed position, the Court appointed undersigned counsel as Independent Special Counsel to present any available mitigating information to the Court during a *Spencer* Hearing if the Defendant was convicted as charged and the State proved at least one statutory aggravator. On August 31, 2026, the Defendant executed a waiver of a jury trial for both the guilt and penalty phases of his trial. Additionally, the Defendant reaffirmed his desire to continue representing himself.

On September 14, 2026, a bench trial commenced. The Defendant reaffirmed his desire to represent himself and his desire to have a bench trial. Trial lasted until September 23, 2026, at which time the Court found the Defendant guilty of First-Degree Premediated Murder, as charged. On the same day, September 23, 2026, the Defendant reaffirmed his desire to continue representing himself and to continue with a bench trial for the Penalty Phase of the trial. The

ELECTRONICALLY FILED 10/07/2026 09:36:06 PM: KEN BURKE, CLERK OF THE CIRCUIT COURT, PINELLAS COUNTY

Penalty Phase then immediately commenced. To prove the aggravators, the State relied primarily on the evidence heard during the Guilt Phase and victim impact statements from the victim's husband, family, colleagues, and friends. The Defendant did not present any additional information and made no argument for or against the Death Penalty. After considering the evidence, the Court, in its factfinding capacity, found that the State had proven beyond a reasonable doubt two of its three asserted aggravating factors: that the murder was committed for financial gain and that the crime was committed in a cold, calculated, and premeditated manner, without any pretense of moral or legal justification. The Court did not find that the State proved beyond a reasonable doubt that the murder was especially heinous, atrocious, or cruel. Following the Court finding that the State proved the two aggravating factors, the Court scheduled a *Spencer* Hearing for October 8, 2026.

In *Spencer v. State*, the Florida Supreme Court articulated the proper sentencing procedure after a jury has recommended the death sentence:

> First, the trial judge should hold a hearing to:
>
> a) give the defendant, his counsel, and the State, an opportunity to be heard;
>
> b) afford, if appropriate, both the State and the defendant an opportunity to present additional evidence;
>
> c) allow both sides to comment on or rebut information in any presentence or medical report; and
>
> d) afford the defendant an opportunity to be heard in person.
>
> Second, after hearing the evidence and argument, the trial judge should then recess the proceeding to consider the appropriate sentence. If the judge determines that the death sentence should be imposed, then, in accordance with section 921.141, Florida Statutes (1983), the judge must set forth in writing the reasons for imposing the death sentence. Third, the trial judge should set a hearing to impose the sentence and contemporaneously file the sentencing order.
>
> 615 So.2d 688, 691-92 (Fla. 1993).

Pursuant to Fla. Stat. § 921.141(1), during the Penalty Phase "evidence may be presented as to any matter that the court deems relevant to the nature of the crime and the character of the defendant and shall include matters relating to any of the aggravating factors enumerated in subsection (6) and for which notice has been provided pursuant to s. 782.04(1)(b) or mitigating circumstances enumerated in subsection (7). Any such evidence that the court deems to have probative value may be received, regardless of its admissibility under the exclusionary rules of evidence, provided the defendant is accorded a fair opportunity to rebut any hearsay statements."

A mitigating circumstance is broadly defined as "any aspect of a defendant's character or record and any of the circumstances of the offense" that reasonably may serve as a basis for imposing a sentence less than death. *Rogers v. State*, 783 So.2d 980, 995 (Fla. 2001) (quoting *Campbell v. State*, 571 So.2d 415, 419 n. 4 (Fla. 1990)). Additionally, pursuant to Fla. Stat. § 921.141(7), mitigating circumstances are statutorily defined as the following:

(a) The defendant has no significant history of prior criminal activity.

(b) The capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance.

(c) The victim was a participant in the defendant's conduct or consented to the act.

(d) The defendant was an accomplice in the capital felony committed by another person and his or her participation was relatively minor.

(e) The defendant acted under extreme duress or under the substantial domination of another person.

(f) The capacity of the defendant to appreciate the criminality of his or her conduct or to conform his or her conduct to the requirements of law was substantially impaired.

(g) The age of the defendant at the time of the crime.

(h) The existence of any other factors in the defendant's background that would mitigate against imposition of the death penalty.

The Court, having already found that the State proved two aggravating factors beyond a reasonable doubt, should now receive any additional evidence from the Defendant, the State, and undersigned counsel to take into consideration in making its final determination as to whether the death penalty should be imposed. In this specific case, the Defendant has taken the rare approach by waiving representation, a jury trial, and, has thus far, has declined to present any mitigation or argument that might weigh against imposition of the death penalty. Having been appointed by this Court or present any available mitigating information at the *Spencer* hearing, undersigned counsel hereby submits the following memorandum summarizing the available mitigating information and information that might weigh against the imposition of the death penalty.

I. Early Childhood

Tomasz "Tommy" Kosowski was born in Poland on January 8, 1979 to parents Roman and Dorota Kosowski. In approximately 1982, his family escaped from Poland to West Berlin as refugees just days before the Polish military locked down the country in political limbo. For nearly 4 years, the family remained in West Berlin searching for a home and learning Western culture. Then, on or about February 1986, a group of parishioners from St. Joseph's church in Polish Hill, Kansas sponsored the Kosowskis to come to America. Upon arrival in America, the church group provided the Kosowskis a home which had been recently vacated by a deceased, philanthropic Polish couple.

Seven-year-old Tomasz, or "Tommy" as he insisted on being called, was enrolled in All Saints School, a catholic school associated with the sponsoring church group. At All Saints

School, Tommy learned English from a polish-speaking nun, made friends with his classmates, despite the language and cultural barriers, and began to acclimate to the American lifestyle and culture.

See App. 2-4 (Gerrity, Kevin, *The New Neighbors*, Kansas City Times, April 5, 1986).

II. Family

According to available records, Dr. Tomasz Kosowski is the sole child of his mother, Dorota Prysak, and his late father, Roman J. Kosowski. Ms. Prysak currently resides in Albuquerque, New Mexico. Jail records suggest that Dr. Kosowski and his mother continue to maintain a close relationship as she has consistently attended numerous video visits and received numerous jail calls over the three and half years that Dr. Kosowski has been in custody. *See* App. 10-71. Additionally, jail visitation logs indicate Dr. Kosowski continues to maintain friendships with those who were close to him before his crime. Several of Dr. Kosowski's friends who were referenced in the phone records during trial have continued to visit Dr. Kosowski while he has been incarcerated. *See* App. 10-71.

His father, Mr. Roman Kosowski passed on or about January 10, 2014 in Albuquerque, New Mexico. Undersigned counsel has no additional information concerning Dr. Kososki's relationship with his father. *See* App. 5.

Dr. Kosowski has no known siblings or children. However, at the time of his arrest, he was a proud dog parent. The contents of his phone download are replete with references to his two dachshunds, Gibson and Rigby. In a text message to a friend, Dr. Kosowski noted that he likes "Eleanor Rigby the Beatles song" and that he likes "Gibson guitars." Per the discovery, the dogs were initially retrieved by animal services after his crime but later taken in by friends of Dr. Kosowkski. *See* App. 6.

III. Religious Associations

Dr. Kosowski grew up in a catholic household and attended catholic grade school as already detailed in this memorandum. According to jail records, Dr. Kosowski identified his religion as "Catholic" on August 14, 2023. On March 6, 2023, a Pinellas County Jail Incident report indicates that Dr. Kosowski was in possession of a Bible and/or religious books during a shakedown. Dr. Kosowski enrolled in catholic mass programming on July 22, 2026. Finally, the State is willing to stipulate that, over his numerous jail calls and video visitations, Dr. Kosowski frequently discusses his religious beliefs and faith.

See App. 70.

IV. Educational History

University of New Mexico

According to Dr. Tomasz Kosowski's most recent Curriculum Vitae (CV), he attended the University of New Mexico from 1997-2002. While at the University of New Mexico, Dr. Kosowski earned a Bachelor of Arts Degree in Music, with a focus on Classical Guitar Performance in 2001. Also in 2001, Dr. Kosowski earned a Bachelor of Science Degree in Biochemistry. Dr. Kosowski graduated Summa Cum Laude while earning several scholarships and other university honors. In 2002, Dr. Kosowski earned a Master of Science Degree in Biomedical Sciences, graduating with distinction. *See* App. 7.

While at the University of New Mexico, Dr. Kosowski was a Research Assistant for several different professors. He described his research work as follows as follows: devised, executed, and published research pertaining to nuclear pre-mRNA splicing mechanisms, refined and

mastered various laboratory techniques and procedures including data analysis, applied unique imaging techniques to determine molecular pathogenesis of schizophrenia, developed and carried out guided projects in biophysical and structural chemistry, and maintained and operated Atomic Force Microscopy (AFM) laboratory. *See* App. 8.

Dartmouth

From 2002-2007, Dr. Kosowski attended Dartmouth Medical School and the Tuck School of Business at Dartmouth, earning a Medical Degree and a Master of Business Administration Degree. While at Dartmouth, Dr. Kosowski was elected Class President, was a Hampers Scholar, and was a Captain of the Ice Hockey team. Also at Dartmouth, Dr. Kosowski served in the Cardiac Surgery Research Laboratory at Johns Hopkins Hospital and served at the Drug Discovery Incubator at the Novartis Institute of Biomedical Research. *See* App. 7.

Following his medical school graduation in 2007, Dr. Kosowski was a research fellow at the Memorial Sloan-Kettering Cancer Center in New York City. As a fellow, Dr. Kosowski noted that he published a systematic review of outcome measures after facial cosmetic surgery, developed multi-dimensional outcome measures after facial and body contouring surgery, and participated in validation of "BREAST-Q." In 2014, Dr. Kosowski participated in a Breast Reconstruction Fellowship at the Miami Breast Center in Key Biscayne, FL wherein he received additional training in hand/upper extremity surgery and facial reconstruction. In 2015, Dr. Kosowski participated in a fellowship at Mark Codney Plastic Surgery located in Atlanta, Georgia. *See* App. 8.

V. Medical Field Contributions

During his career, Dr. Kosowski published several scholarly publications, many of which

have been cited and relied upon by other practitioners in his fields:

- *Impact of secondary pulmonary hypertension on lung transplant outcome*, 2005.

Abstract:

Introduction: Secondary pulmonary hypertension (SPH), defined as a mean pulmonary artery pressure (PAM) greater than 25 mm Hg, complicates end-stage lung diseases of varying etiology. Although previous studies have suggested that SPH does not adversely affect outcome, no study has assessed the impact of the degree of SPH.

Methods: A retrospective review of the lung transplant database was used to identify patients who underwent either single-lung (SLT) or bilateral lung transplantation (BLT) complicated by SPH. SPH patients were stratified into low SPH (PAM = 30-40 mm Hg) and high SPH (PAM > or = 40 mm Hg). Each group was further sub-categorized into SLT or BLT. Patients with a heart-lung transplant or primary pulmonary hypertension were excluded. Recipients without pulmonary hypertension transplanted over the same time were used as controls. Data are reported as controls vs low SPH vs high SPH.

Results: One hundred-four patients received lung transplants between August 1998 and March 2003. There were 45 patients (18 men and 27 women) with SPH. Of these, 28 patients had low SPH, and 17 patients had high SPH. Forty-two patients (18 men and 24 women) without PH were the controls. There were no significant differences between groups except pre-operative oxygen dependence (81% vs 100% vs 94%, respectively) and use of CPB (28.6% vs 57.1% vs 64.7%,

respectively). PAO2-PaO2 gradients and PaO2/FIO2 ratios were significantly worse in the high SPH group (116.2 vs 132.9 vs 186.3; $p < 0.006$) and (277.8 vs 234.3 vs 214.4; $p < 0.026$) respectively. There was no statistical difference in length of mechanical ventilation or duration of intensive care unit stay between groups. PAMs were significantly different pre-operatively (22.2 +/- 0.8 vs 34.0 +/- 0.6 vs 47.8 +/- 2.0; $p < 0.001$) and post-operatively (20.9 +/- 1.1 vs 23.7 +/- 1.3 vs 24.8 +/- 2.1; $p < 0.001$). There were no operative deaths. There were 3 early deaths in the control group, 1 in the low SPH group, and 3 in the high SPH group, none were related to pulmonary hypertension. Actuarial survival at 12, 24, and 48 months was not significantly different among the groups nor between SLT or BLT with SPH.

Conclusion: Although SPH increases the risk of reperfusion injury; survival is equivalent with mild or moderate pulmonary hypertension. Either SLT or BLT may be used in patients with SPH without compromising outcome. This has the added benefit of expanding the donor pool.

Torin P Fitton, Tomasz R Kosowski, Christopher J Barreiro, Vincent Chan, Nishant D Patel, Marvin C Borja, Jonathan B Orens, John V Conte, *Impact of secondary pulmonary hypertension on lung transplant outcome*, J Heart Lung Transplant, September 24, 2005, (9):1254-9. https://pubmed.ncbi.nlm.nih.gov/16143242/.

- *A systematic review of patient-reported outcome measures after facial cosmetic*

surgery and/or nonsurgical facial rejuvenation, 2009.

Abstract

Background: Patient satisfaction and improved quality of life are the predominant considerations determining success in cosmetic surgery. However, few studies have examined patients' perceptions of their appearance following cosmetic facial surgery and/or nonsurgical facial rejuvenation. This study identified patient-reported outcome measures developed and validated for use in patients undergoing surgical and/or nonsurgical cosmetic procedures.

Methods: A systematic review of the English-language literature was performed. Patient-reported outcome measures designed to assess patient satisfaction and/or quality of life following surgical and/or nonsurgical cosmetic procedures were identified. Qualifying instruments were assessed for content and adherence to international guidelines for development and validation.

Results: From 442 articles, 47 patient-reported outcome measures assessing facial appearance after a cosmetic procedure were identified. Only nine questionnaires satisfied inclusion and exclusion criteria. These measures were subdivided into the following categories: rhinoplasty (Rhinoplasty Outcomes Evaluation, Glasgow Benefit Inventory, Facial Appearance Sorting Test), skin rejuvenation (Facial Lines Treatment Satisfaction Questionnaire, Skin Rejuvenation Outcomes Evaluation, Facial Lines Outcomes Questionnaire), face lift (Facelift Outcomes Evaluation), blepharoplasty (Rhinoplasty Outcomes Evaluation), and general

appearance (Derriford Appearance Scale 59). None of these measures satisfied all guidelines. All measures were limited by either their development, their validation, or their content.

Conclusions: Valid, reliable, and responsive instruments designed to measure patient-reported outcomes following surgical and nonsurgical facial rejuvenation are lacking. A patient-reported outcome measure that represents perceptions of facial cosmetic surgery patients and satisfies accepted health measurement criteria is needed. It would facilitate comparison of techniques and quantification of positive effects, and aid surgeons seeking to quantify outcomes in their own practices.

Tomasz R Kosowski, Colleen McCarthy, Patrick L Reavey, Amie M Scott, Edwin G Wilkins, Stefan J Cano, Anne F Klassen, Nicholas Carr, Peter G Cordeiro, Andrea L Pusic**,** *A systematic review of patient-reported outcome measures after facial cosmetic surgery and/or nonsurgical facial rejuvenation*, Plast. Reconstr. Surg. June 2009 123(6):1819-1827. https://pubmed.ncbi.nlm.nih.gov/19483584/.

- *DExD/H-box Prp5 protein is in the spliceosome during most of the splicing cycle*, 2009.

Abstract:

The DExD/H-box Prp5 protein (Prp5p) is an essential, RNA-dependent ATPase required for pre-spliceosome formation during nuclear pre-mRNA splicing. In order to understand how this protein functions, we used in vitro, biochemical

assays to examine its association with the spliceosome from Saccharomyces cerevisiae. GST-Prp5p in splicing assays pulls down radiolabeled pre-mRNA as well as splicing intermediates and lariat product, but reduced amounts of spliced mRNA. It cosediments with active spliceosomes isolated by glycerol gradient centrifugation. In ATP-depleted extracts, GST-Prp5p associates with pre-mRNA even in the absence of spliceosomal snRNAs. Maximal selection in either the presence or absence of ATP requires a pre-mRNA with a functional intron. Prp5p is present in the commitment complex and functions in subsequent pre-spliceosome formation. Reduced Prp5p levels decrease levels of commitment, pre-spliceosomal and spliceosomal complexes. Thus Prp5p is most likely an integral component of the spliceosome, being among the first splicing factors associating with pre-mRNA and remaining until spliceosome disassembly. The results suggest a model in which Prp5p recruits the U2 snRNP to pre-mRNA in the commitment complex and then hydrolyzes ATP to promote stable association of U2 in the pre-spliceosome. They also suggest that Prp5p could have multiple ATP-independent and ATP-dependent functions at several stages of the splicing cycle.

Tomasz R Kosowski, Heather R Keys, Tiffani K Quan, Stephanie W Ruby, *DExD/H-box Prp5 protein is in the spliceosome during most of the splicing cycle*, July 2009; 15(7):1345-62. https://pubmed.ncbi.nlm.nih.gov/19451545/.

- *Cleft Palate*, 2012.

Abstract:

Our understanding of cleft palates has come a long way over the last few decades. A better understanding of the long-term consequences of a cleft palate and its effect on speech development challenges surgeons to not only effectively repair the cleft, but to also restore function of the palate for adequate speech. Coordination with speech pathologists is integral for effective management of cleft palate patients, particularly as children begin to develop language. In this article, the authors review and summarize the various challenges and goals of cleft palate management.

Tomasz R Kosowski, William M Weathers, Erik M Wolfswinkel, Emily B Ridgway, *Cleft palate*, Semin Plast Surg. November 2012. 26(4):164-9. https://pubmed.ncbi.nlm.nih.gov/24179449/.

- *Tissue-Engineered Autologous Breast Reconstruction with Brava-Assisted Fat Grafting*, 2015.

Abstract

A technique of whole and partial breast reconstruction is described based on tissue-engineering principles. Brava-assisted external tissue expansion generates an in situ biological recipient scaffold that favors the survival of large volumes of autologous fat graft required for breast reconstruction. Also presented are the results of the authors' multicenter experience with this regenerative alternative in 488 patients over a 7-year period tracking surgical complications, patient satisfaction, efficacy, and

costs**.**

Tomasz R Kosowski, Gino Rigotti, Roger K Khouri, *Tissue-Engineered Autologous Breast Regeneration with Brava®-Assisted Fat Grafting*, Clin Plast Surg. July 2015; 42(3):325-37, viii. https://pubmed.ncbi.nlm.nih.gov/26116938/.

- *Analysis Comparing the Sartorius Versus the Rectus Femoris Flap in the Treatment of the Infected Vascular Groin Graft Wound*, 2015.

Abstract:

Background: The purpose of this study was to examine the sartorius and rectus femoris flaps as reasonable coverage options for the infected vascular groin graft wound. The authors' goal was to perform a cost-utility analysis of the sartorius flap versus the rectus femoris flap in the treatment of an infected vascular groin graft.

Methods: Cost-utility methodology involved a literature review compiling outcomes for specific flap interventions, obtaining utility scores for complications to estimate quality-adjusted life-years, accruing costs using Diagnosis-Related Group and Current Procedural Terminology codes for each intervention, and developing a decision tree that could portray the more cost-effective strategy. The authors also performed sensitivity analysis to check the robustness of their data. Szilyagi III and Samson III and IV grades of infected groin grafts were included in the study.

Results: Twenty-six studies were used pooling 296 patients (234 sartorius flaps and 62 rectus flaps). Decision tree analysis noted that the rectus femoris flap was the more cost-effective option. It was the dominant treatment option given that it was more clinically effective by an additional 0.30 quality- adjusted life-years, with the sartorius flap option costing an additional $2241.88. The sartorius flap had a 13.68 percent major complication rate versus an 8.6 percent major complication rate for the rectus femoris flap. One-way sensitivity analysis showed that the sartorius flap became a cost-effective option if its major complication rate was less than or equal to 8.89 percent.

Conclusion: The rectus femoris flap in the treatment of the infected vascular groin graft is a cost-effective option compared with the sartorius flap.

Abhishek Chatterjee , Tomasz Kosowski, Bryan Pyfer, Carla S Fisher, Julia C Tchou, Sirish Maddali, *A Cost-Utility Analysis Comparing the Sartorius versus the Rectus Femoris Flap in the Treatment of the Infected Vascular Groin Graft Wound*, last Reconstr Surg. June 2015; 135(6):1707-1714. https://pubmed.ncbi.nlm.nih.gov/25742522/.

VI. Occupational History

From 2008 to 2014, Dr. Kosowski was a resident physician at the Dartmouth-Hitchcock Medical Center in Lebanon, New Hampshire. During that residency, Dr. Kosowski also

participated in the Plastic Surgery/General Surgery Residency program. Following his residency at Dartmouth, Dr. Kosowski secured a position in 2015 as a Staff Plastic Surgeon at the Bassin Center for Plastic Surgery in Tampa, Florida. From 2016 to 2019, Dr. Kosowski worked as a Staff Plastic Surgeon at the Laufer Institute of Plastic Surgery in Dunedin, Florida. In 2019, Dr. Kosowski was hired as Staff Plastic Surgeon at Sono Bello in Orlando, Florida. From 2021 to 2022, Dr. Kosowski was a Staff Plastic Surgeon at Xiluet Plastic Surgery located in Miami, Florida. Finally, at the time of his arrest on March 25, 2023, Dr. Kosowski was employed at the Kendall Surgery Center in Miami, Florida. *See* App. 7.

VII. Criminal History

Dr. Kosowski has no prior arrests or criminal convictions. The present offense is Dr. Kosowski's complete criminal record, and he has remained continuously in-custody since his arrest date on March 25, 2023.

VIII. Mental Health History

Florida Rule of Criminal Procedure 3.202(b-c) requires that the defense give notice within 20 days of trial of its intent to rely upon the testimony of a mental health profession for mitigation during the penalty phase of a Capital Trial. In the present matter, Dr. Kosowski, representing himself, filed no such notice, nor did his prior counsel. Therefore, there is no known mental health mitigation upon which the Court can rely upon as mitigation.

IX. Pinellas County Jail Conduct

In the nearly three and half years incarcerated awaiting trial, Dr. Kosowski has had

remarkably good jail conduct. Dr. Kosowski is referenced in a total of ten jail incident reports. All incident reports reference benign behavior. Several incident reports reference Dr. Kosowski's refusal to accept meals during the first few months of his incarceration. There are only four incident reports referring to alleged misconduct and even those incidents reflect overall compliant conduct on Dr. Kosowski's part. The four incident reports referring to alleged misconduct are as follows:

- **December 23, 2025**: Dr. Kosowski was involved in a fight with another inmate. When interviewed, Dr. Kosowski and the other inmate indicated the fight was "mutual combat." However, a jail supervisor reviewed surveillance footage from within the pod and described the incident as follows:

  > At approximately 1508 hours, both inmates can be observed arguing. [Other Inmate] enters Cell 2, followed by Kosowski. Kosowski then exits the cell and begins eating his meal at a dayroom table. [Other Inmate] exits Cell 2 shortly afterward and begins swinging an empty food tray at Kosowski (the tray does not make contact with Kosowski). [Other Inmate] re-enters Cell 2, with Kosowski following, and a physical altercation occurs. During the altercation, both inmates fall out of Cell 2 onto the dayroom floor. At approximately 1515 hours, the inmates briefly embrace, and separate.

Thus, it appears this incident was an instance where Dr. Kosowski was acting in self-defense from an inmate swinging an empty food tray and shows that Dr. Kosowski and the other inmate resolved the incident amicably before jail staff intervention.

- **December 30, 2025**: During a shake down of Dr. Kosowski's pod, he was found to have a personal radio in his possession.

- **March 6, 2026**: During a shakedown of Dr. Kosowski's pod, jail staff located a Bible

and religious books in his possession.

- **August 5, 2026:** During a shakedown of Dr. Kosowski's pod, jail staff located an extra pair of earbuds in his possession, which inmates use for audio on their jail visitation tablets.

Dr. Kosowski's jail conduct shows no pattern of violence or significant misconduct. The few instances of alleged misconduct appear trivial and completely benign for anyone not incarcerated. Given that Dr. Kosowski has been incarcerated for three and half years, his jail conduct supports that he will continue to be a compliant inmate while he is in prison. There is no pattern of violence or threatening behavior that would suggest that he would be a danger to other inmates while he is incarcerated. Additionally, there is no information within the Incident Reports which would indicate that he has been disrespectful, violent, or otherwise problematic towards jail staff.

X. Trial Conduct

During the course of trial and proceedings leading up to trial, undersigned counsel observed that Dr. Kosowski consistently demonstrated appropriate courtroom behavior and decorum. While there were moments wherein Dr. Kosowski was arguing contested legal issues and expressed some argumentative frustration when questioning witnesses, he did not have any outbursts, was never reprimanded for his behavior, and courteously addressed the Court, opposing counsel, and courtroom staff.

XI. Death Penalty Case Comparison

"The Equal Protection Clause of the Fourteenth Amendment commands that no State shall 'deny to any person within its jurisdiction the equal protection of the laws,' which is essentially a direction that all persons similarly situated should be treated alike." *City of Cleburne v. Cleburne Living Center*, 473 U.S. 432, 439 (1985) (citing *Plyler v. Doe*, 457 U.S. 202, 216 (1982). In considering whether to impose the death penalty, the Court should consider whether a death sentence would be consistent with other similarly situated death penalty defendants. Additionally, the Court should consider whether the proven aggravating factors are sufficient to warrant a death sentence. What follows is a selection of cases from Pinellas County which exemplify some of the various aggravating factors seen in other death penalty cases:

- **Genghis Kocaker (2004) Pinellas County Case 0419874CFANO**

In *Kocaker*, the defendant murdered a taxi driver and was sentenced to death. *See Kocaker (II) v. State* 311 So.3d 814, 818 (Fla. 2020). The defendant committed the murder by slashing the victim's throat, stabbing him, and tying him up in the trunk of the taxi. Then the defendant set the taxi on fire. *See Kocaker (II)*, 311 So. 3d at 818. The medical evidence at trial showed that the victim died of carbon monoxide poisoning, meaning that the victim was still alive as he burned to death. *Id*. In sentencing the defendant to death, the trial court found that the State had proven three aggravating factors: 1) that the defendant was on felony probation at the time of the murder, 2) that the defendant was previously convicted of crimes of violence, including a prior conviction for Manslaughter and eight Armed Robberies, and 3) that the murder was especially heinous, atrocious, or cruel. *Kocaker (I)*, 119 So.3d 1214, 1223 (Fla. 2013). However, in 2020, the Florida Supreme Court reversed the defendant's conviction, upholding the trial court's ruling on a post-conviction order. *Kocaker (II),* 311 So.3d at 824. In December

2021, the defendant was re-sentenced to life without the possibility of parole.

- **Richard Robards (2006) Pinellas County Case 0618453CFANO**

In *Robards*, the defendant murdered a married couple during the course of an Armed Robbery. The defendant in *Robards* had been the personal trainer to the couple, stole approximately $88,000 during the crime, killed the pair causing sharp force to both victims, and set their house on fire. *Robards v. State*, 214 So.3d 568, 570-571. At trial, the State proved four aggravating factors beyond a reasonable doubt: 1) the defendant was convicted of a prior capital felony, 2) the defendant committed the murders for pecuniary gain, 3) each murder was committed during an Armed Robbery, and 4) that both murders were especially heinous, atrocious, or cruel. *Robards*, 214 So.3d at 571. In 2017, relying on *Hurst v. Florida*, the Florida Supreme Court overturned the defendant's death sentence and remanded the case for a new sentencing phase. On June 29, 2017, the defendant was re-sentenced to life without the possibility of parole.

- **Patrick Evans (2008) Pinellas County Case 0826829CFANO**

In *Evans*, the defendant murdered his estranged wife and the wife's new boyfriend. *See Evans v. State*, 177 So.3d 1219, 1224 (Fla. 2015). Spurred on by contentious divorce proceedings, the defendant shot his estranged wife and her boyfriend to death in the wife's bedroom. *Evans*, 177 So.3d at 1224. The trial court determined that the State proved two aggravating factors: 1) the defendant has been convicted of a prior capital felony and 2) the defendant committed the murders during an Armed Burglary. *Id*. at 1227-1228. Initially, the defendant was sentenced to death, however, in 2015, the Florida Supreme Court overturned the defendant's conviction due to harmful error during the Guilt phase. The case was remanded for a new trial. *Id.* at 1240. At the second trial in October of 2017, the jury determined that the

aggravating factors were not sufficient to warrant the death penalty and the defendant was accordingly sentenced to life without the possibility of parole.

CONCLUSION

The available mitigating evidence should be taken with great weight when the Court is determining whether to impose the death penalty. There is a clear statutory mitigator that Dr. Kosowski has no prior criminal history. In addition, there is evidence of non-statutory mitigators:

- Dr. Kosowski maintains meaningful relationships with his friends and mother. This is established by his continued contact with them even after his arrest. The distinct lack of any malignant conduct while in jail the last three and half years suggests that he will continue to relate well to the inmates he encounters in prison. The only instance of a known negative interaction with his fellow inmates was a fight wherein he was acting in self-defense and appeared to resolve the dispute amicably without any jail staff intervention.

- Dr. Kosowski has made major contributions, in the form of research and writing, to the medical and scientific communities. His various publications don't just show contributions to cosmetic procedures but also include contributions to society's knowledge on cleft palates, lung transplants, cancer, schizophrenia, and cardiac surgery. These contributions will endure, be expounded upon, and will hopefully aid in society's understanding of some of our most critical health concerns.

- Dr. Kosowski is likely adaptable to the prison environment and has the capacity to

make positive contributions to the prison community. Dr. Kosowski will never practice medicine again. However, he is still highly intelligent and highly educated. He is also still musically and athletically gifted. He was elected class president in medical school. He remains religious and, in his religion, the concept of "atonement" is pivotal. All of this tends to show that Dr. Kosowski, if his life is spared, can still be a positive force in his environment. He has the capacity to be a teacher, a peacemaker, and a leader to those in prison who are not so fortunate to possess his intelligence, talent, and education.

Undersigned counsel urges this Court to closely consider these mitigating circumstances and how the case against Dr. Kosowski compares to other similarly situated defendants. The Court should consider whether the totality of these mitigation circumstances outweigh the totality of the aggravating circumstances, or lack thereof, in determining whether the death penalty is appropriate. Undersigned counsel thanks the Court for the opportunity to advise in this capacity as Independent Special Counsel.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was furnished electronically to the Office of the State Attorney, Sixth Judicial Circuit and all interested parties this 7th day of October 2026.

/s/ John Nohlgren
John Nohlgren
Attorney for Defendant
Florida Bar #: 86536
1247 First Avenue N
St. Petersburg, FL 33705
Phone: 727-209-7091
Email: John@NohlgrenLaw.com