

EXHIBIT A

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT OF
FLORIDA, IN AND FOR MIAMI-DADE COUNTY

THE STATE OF FLORIDA,
Plaintiff,

CRIMINAL DIVISION
CASE NO.: F92-6089 B

vs.

JUDGE STANFORD BLAKE

LEONARDO FRANQUI,
Defendant

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ORDER DENYING CLAIM TO DECLARE DEFENDANT MENTALLY RETARDED

This cause having come before the court following a relinquishment of jurisdiction by the Florida Supreme Court to hold an evidentiary hearing to determine if the Defendant is mentally retarded pursuant to Fla. R. Crim.P. 3.203 and *Atkins v. Virginia*, 536 U.S. 304 (2002), and the court having held an evidentiary hearing on September 17, 2009, finds as follows:

At the evidentiary hearing, both the State and counsel for Defendant, with the Defendant's consent, stipulated into evidence the reports of their respective experts, Dr. Suarez and Dr. Block-Garfield. It was stipulated that if the experts were called to testify, that they would testify consistently with the contents of their reports. Based upon that, this court orally denied the Defendant's motion. This order follows.

Fla. R.Crim. P. 3.203 states as follows:

(b) Definition of Mental Retardation. As used in this rule, the term "mental retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the period from conception to age 18. The term "significantly subaverage general intellectual functioning," for the purpose of this rule, means performance that is two or more standard deviations from the mean score on a standardized intelligence test authorized by the Department of Children and Family Services in rule 65B-4.032 of the Florida Administrative Code. The term "adaptive behavior," for the purpose of this rule, means the effectiveness or degree with which an

STATE OF FLORIDA COUNTY OF MIAMI-DADE
I HEREBY certify that this is a true and correct copy of the original on file in the office of
HARVEY RUVIN, Clerk of the Court
Deputy Clerk

10/08/09
[Handwritten Signature]



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individual meets the standards of personal independence and social responsibility expected of his or her age, cultural group, and community.

According to the report of Dr. Block-Garfield, the Defendant's full scale IQ is 75, which places him in the borderline range of intellectual functioning in all areas measured. Dr. Block-Garfield states in her report: "The scores do reflect considerable difficulties, but it does not appear that Mr. Franqui functions in the retarded range." She also notes that his score on the Stanford Binet was 76, which does not indicate mental retardation, but rather reflects functioning in the borderline range of intelligence. Dr. Block-Garfield's report also states that while his functioning at the time of arrest was impaired, it was likely due to the Defendant's immaturity and impulsive behavior. She further states that: "Certainly, he was in some fashion supporting a family which could not be accomplished by an individual who is mentally retarded."

While Dr. Suarez' report is the most comprehensive that this court has ever seen and is very impressive, this court will not go into the details as it is clear that since the Defendant's own expert determined that he is not mentally retarded, that it is not necessary. This court will only note that the IQ score obtained by Dr. Suarez is consistent with the IQ score obtained by Dr. Block-Garcia. It is clear that the Defendant's IQ is 75 or 76.

Fla.R.Crim.P. 3.203 also states:

(c) Motion for Determination of Mental Retardation as a Bar to Execution: Contents; Procedures.

(1) A defendant who intends to raise mental retardation as a bar to execution shall file a written motion to establish mental retardation as a bar to execution with the court.

(2) The motion shall state that the defendant is mentally retarded and, if the defendant has been tested, evaluated, or examined by one or more experts, the names and addresses of the experts. Copies of reports containing the opinions of any experts named in the motion shall be attached to the motion. The court shall appoint an expert chosen by the state attorney if the state attorney so requests. The expert shall promptly test, evaluate, or examine the defendant and shall submit a written report of any findings to the parties and the court.

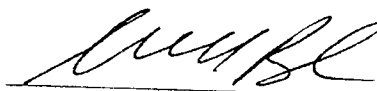
Dr. Block-Garfield's report is dated March 4, 2003. It was not turned over to the State until September, 2009, 6 ½ years later. Current counsel has been on this case at least since 2005, over 4 years. It is unknown how long he has been in possession of the report or if he pursued this claim with knowledge he could not prove it. The claim was originally summarily denied on Feb. 21, 2008, after the Florida Supreme Court relinquished jurisdiction to the trial court on November

30, 2007, for an evidentiary hearing. It again relinquished jurisdiction to this court for an evidentiary hearing. Dr. Suarez spent a lot of time and effort evaluating the Defendant and preparing an impressive report. Counsel for Defendant is commended for stipulating the reports into evidence instead of causing a larger expense for the live testimony of the expert witnesses.

It would be prudent that the Defendant be required to make a prima facie showing of mental retardation before the Defendant is entitled to an evidentiary hearing. This case has been relinquished twice for a hearing when the Defendant's own expert determined in 2003 that the Defendant had an IQ above 70, no deficits in adaptive functioning and is not mentally retarded.

WHEREFORE, it is ORDERED AND ADJUDGED that the Defendant's claim is DENIED.

Done and ordered in Miami-Dade County this 6th day of October, 2009.



Stanford Blake
Circuit Court Judge

Copies to:

Thomas Hall, Clerk of the Florida Supreme Court
Gail Levine, ASA
Sandra Jaggard, AAG
Todd Scher, Counsel for Defendant