

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT  
IN AND FOR BREVARD COUNTY, FLORIDA

STATE OF FLORIDA,  
Plaintiff,

CASE NO. 052023CF017751AXXXXX

vs.

DOMENICO CLAUDE GIGANTE,  
Defendant.

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**NOTICE OF INTENT TO  
SEEK THE DEATH PENALTY**

Pursuant to Sections 775.082(1)(a) and 782.04(1)(b), Florida Statutes (enacted March 13, 2017) and Rule 3.181, Florida Rules of Criminal Procedure, the State of Florida, by and through the undersigned Assistant State Attorney, hereby gives written notice of its intention to seek the death penalty against the above-named Defendant, and further, provides the following list of aggravating factors found at Section 921.141(6), Florida Statutes, which the State intends to prove and believes can be proven beyond a reasonable doubt:

1. The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person. Fla. Stat. s. 921.141(6)(b).
  - a. As to Counts 1-4 in the indictment. Defendant previously convicted of Aggravated Assault in Brevard County case number 2012-CF-5618.
  - b. As to counts 1-4 in the indictment: contemporaneous killings. (“The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person.” This Court has repeatedly held that “where a defendant is convicted of multiple murders, arising from the same criminal episode, the contemporaneous conviction as to one victim may support the finding of the prior violent felony aggravator as to the murder of another victim.” *Francis v. State*, 808 So.2d 110, 136 (Fla.2001))
2. The capital felony was committed while the defendant was engaged, or was an accomplice, in the commission of, or an attempt to commit, or flight after committing or attempting to commit, any burglary Fla. Stat. s. 921.141(6)(d).
  - a. As to counts 1-4 in the indictment.
3. The capital felony was a homicide and was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification. Fla. Stat. s. 921.141(6)(i).

- a. As to counts 1-4 of the indictment.
4. The victim of the capital felony was particularly vulnerable due to advanced age or disability, or **because the defendant stood in a position of familial** or custodial authority over the victim.
    - a. As to count 3 of the indictment.

The State of Florida, by the filing of this notice, demands that defendant file within twenty (20) days, its notice of intent to present expert testimony of mental mitigation if the defendant intends to present, during the penalty phase of the trial, expert testimony of a mental health professional who has tested, evaluated, or examined the defendant in order to establish statutory or non-statutory mental mitigating circumstances.

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by **E-MAIL** to OFFICE OF THE PUBLIC DEFENDER - FELONY, Attorney for Defendant, at BREVARDFELONY@PD18.NET this 4th day of April, 2023.

PHIL ARCHER  
STATE ATTORNEY

BY: /S WILLIAM SCHEINER

ASSISTANT STATE ATTORNEY

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