

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

vs.

CASE NO. 18-19558CF10A  
JUDGE ELIZABETH SCHERER

NIKOLAS JACOB CRUZ,

Defendant.  
\_\_\_\_\_ /

SUPPLEMENT TO MOVANT'S MOTION TO SERVE AS *AMICUS CURIAE*:

COMES NOW John B. Thompson (Thompson), who has moved this Honorable Court to grant him *amicus curiae* status herein, and states as follows:

1. Within days of the February 14, 2018, Parkland massacre, the undersigned movant (Thompson) formally petitioned this Honorable Court to grant him *amicus curiae* status herein.

2. Thompson had previously served as *amicus curiae* in the federal obscenity case brought in Broward County in the U.S. District Court for the Southern District of Florida which resulted in the first verdict in the history of the world that a sound recording was obscene. That was a trial, not an appellate proceeding.

3. For reasons known only to this instant Honorable Court, she has not granted or even entertained, it seems, this movant's motion.

4. It should be addressed, finally, for the compelling reasons provided below, made all the more compelling and germane by certain developments in this case as widely reported by local, state, national, and international media covering this case, to-wit:

5. The Broward Public Defender's office representing the defendant has informed the Court that it intends to introduce during the sentencing trial [REDACTED]

6. This disclosure is both remarkable and disturbing in that the undersigned movant four years ago made available to the Broward Public Defenders office, including but not limited to Assistant Public Defender Melisa McNeill, certain renowned experts who have testified before U.S. Congressional committees as to the evidence of the causal link between violent video game play and teen aggression and violence.

Additionally, Ms. McNeill was told four years ago that [REDACTED] should have been immediately done back then in order to preserve certain evidence.

7. Some of the "hard science" evidence of neurological deficits and defects and injuries consists of fMRI peer-reviewed studies conducted at Harvard University, Indiana University, and other academic and medical institutions which prove brain damage by virtue of obsessive teen video game play.

8. Whereas QEEG studies may be junk science, as alleged by the Broward State Attorney, fMRI studies are not. Proof: The United States Supreme Court in 2005, in a majority opinion authored by Associate Justice Kennedy, struck down the juvenile death penalty. In that case the American Psychological Association and the American Medical Association, both serving the High Court as *amici curiae* submitted fMRI brain scan studies proving visually by shocking brain scans that teen brains are underdeveloped and thus more prone to emotion-driven acts of violence. Read all about it at <https://www.apa.org/about/offices/ogc/amicus/roper>.

9. More precisely, the U.S. Supreme Court learned that teen brains lack the full physical connection of the emotion-driven midbrain to the prefrontal cortex by neural

pathways called dendrites. These are the same kind of fMRI studies that prove the further impairment, impeding, and damaging effect of chronic violent video game play by teens such as Cruz. It was not junk science in 2005. It is not junk science now.

See:

<https://newsinfo.iu.edu/web/page/normal/20602.html#:~:text=Sustained%20changes%20in%20the%20region,meeting%20of%20the%20Radiological%20Society>

10. The undersigned movant does not traffick in junk science, and it is clear that neither does the United States Supreme Court. SCOTUS did not consider QEEG studies. It entertained fMRI studies that are now a state of the art diagnostic tool, and yet this Public Defender apparently has no plans whatsoever to introduce this state of the art, SCOTUS-approved evidence to the jury in this case, despite the distinct probability that Nikolas Cruz suffered and still suffers from a neurological deficit caused by and/or exacerbated by his play of violent video games "up to 15 hours a day," as reported by *The Miami Herald*.

11. Additionally the undersigned movant has spoken directly with an adult who witnessed firsthand Cruz's addictive play of two specific violent video games similarly played by Adam Lanza, the teen author of the Sandy Hook massacre of 26 souls. This witness must appear before the sentencing jury, or it will not be a fair trial.

12. Now we come to arguably the most bizarre and telling development in this disturbing case. Just this week the State Attorney has moved this Honorable Court to take judicial notice of the fact that the defendant, just prior to the massacre, listened to a hit song glamorizing school shootings.

13. So here we have a prosecutor who wants this Court to take notice of that fact because, in his mind, it proves that the defendant knowingly pumped himself up for his

murderous spree by listening to this song, and because of his entering into that musical world's stimulating and motivational message, Cruz is MORE CULPABLE for what he did. An outside influence makes one more culpable? Really?

14. The State Attorney is certainly welcome to make that argument, but here is the more plausible argument that the State Attorney has opened the door wide to be made by a competent prosecutor: If a song can motivate to kill then how much more likely it is that certain violent video games actually linked to other school massacres served as murder simulators that Cruz unwittingly was trained on to kill for years prior to the February 14, 2016, Parkland massacre.

15. And unwittingly? Yes. Cruz's middle school teachers formally assessed Cruz's behavior and warned that the video games he was playing years ago were blurring the line between reality and fantasy and that he would likely become a school shooter.

16. What did the Broward school system do with that warning? They ultimately sent Cruz to a clinic that got him to sign an agreement to play MORE VIOLENT VIDEO GAMES in order to diminish his anger. This is akin to suggesting that an alcoholic should hang out in bars. It is beyond stupid. But even more importantly, this "hear no evil" approach that pop culture influences have NOTHING to do with school violence and in fact should be encouraged is highly germane to what is or is not the appropriate punishment for Nikolas Cruz.

17. The video game industry itself admits the danger and the damage done to underage teens by violent video games by entering into an agreement with the United States government to age-rate and thus age-restrict its violent Mature-rated games. This same industry then aggressively sells its age-restricted products to underage kids in middle school, like Cruz, to make sure the addiction and thus the neurobiological damage

occur early on. Cruz played murder simulators for years, manufactured by an industry that asserts its murder simulators harm and motivate no one. The US military uses them to desensitize teen recruits to the act of killing. But they have no effect on civilians?

18. The undersigned movant was permanently disbarred because he appeared on CBS's *60 Minutes* not once but twice to sound the alarm. The undersigned tried to serve the country as Paul Revere, shouting on national tv: "The school massacres are coming." And come they did AFTER Thompson sounded the alarm. They are known by their names, just as are Civil War battles. Columbine, Sandy Hook, Virginia Tech, and now Parkland prove that the undersigned was right while the rest of the legal community by and large wanted the messenger shot in order to protect their smug notion that ideas and entertainment and brain damage and school massacres are of no concern in a world whose absolutist view of the First Amendment is something the Founders would not recognize.

19. The undersigned movant assumes that Assistant Public Defender Melisa McNeill has no intention of walking through the video game defense door that the State Attorney has unwittingly swung open for her with a tune. Thompson does not know because Ms. McNeill refuses to talk to him. Respectfully, she is putting her own notion that she knows everything about a video game defense when the undersigned has in fact a 23-year head start on her. The undersigned represented the six parents of the three female students shot and killed by a 14-year-old video gamer in the hallways of Heath High School in Paducah, Kentucky. *Ms. McNeill won't even talk with them.*

20. In all the courtrooms down here in Miami-Dade County there hang signs that read "We who labor here seek only the truth." This movant has no idea whether those

signs hang in Broward courtrooms, but they should. Four-year-old motions to serve the Court as an *amicus* should be heard, considered, and ruled upon if truth is a goal.

21. Prediction: If this Honorable Court does not take some steps to make sure the sentencing jury hears not only about a song but also about the murder simulators Cruz consumed which then consumed him, then this Court will be, unfortunately, laying the groundwork for a successful appeal by the defendant in this case. Ineffective assistance of counsel will be just one of the grounds if even some of the above is found by an appellate court to be true. Should the grieving families have to go through another trial?

22. Finally, the undersigned movant respectfully makes this observation: The Public Defender wants this Court and thus the sentencing jury to consider QEEG evidence of brain damage or defect.

Then why in the name of the "labor to seek the truth" has the Public Defender NOT moved this court for an order appointing a Guardian Ad Litem for an Adult who is partially impaired as clearly provided for by Florida Statute? Impaired defendants, regardless of age, get Guardians.

23. Nikolas Cruz is entitled to a Guardian who must then analyze prior to the sentencing trial the legal decisions made by the Public Defender. The Public Defender in this case is under TREMENDOUS ELECTORAL AND POLITICAL PRESSURE not to posit certain defenses. A Guardian would be under no such pressure.

WHEREFORE, the undersigned *amicus curiae* movant does hereby move this court to grant a hearing on his motion, after which it could then rule. Contrary to the video game industry, Thompson is on to something here. Further, in light of all of the above, as well as legal and common sense, this Court should appoint *sua sponte* a Guardian loyal to the defendant, which frankly should have been done years ago.

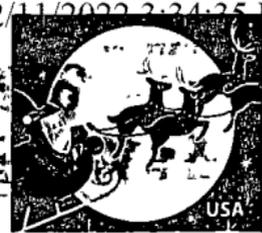
I HEREBY FURTHER CERTIFY that a true copy hereof has been furnished via e-mail this 9th day of February, 2022, to both the Broward State Attorney and the Public Defender, with a courtesy copy to Judge Elizabeth Scherer.



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