

1 The Court of Appeal affirmed in part and conditionally reversed in
2 part. This Juvenile Court now deals with the conditional reversal. The
3 legal basis of the remand was the November 9, 2016 passage of Proposition 57,
4 which provides that juvenile court judges and not prosecutors shall make the
5 determination whether a juvenile age 14 and older should be prosecuted and
6 sentenced as an adult for specified offenses, including murder. In remanding
7 the case, this Court was ordered to conduct a juvenile transfer hearing to
8 determine defendant's suitability for treatment in juvenile or criminal
9 court. Specifically, the Appellate Court directed:

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11 If the juvenile court determines that defendant is the proper
12 subject of criminal proceedings, it shall reinstate the criminal judgment.
13 If the juvenile court finds that it would *not* have transferred defendant
14 to a court of criminal jurisdiction, then it shall deem defendant's
15 convictions to be juvenile adjudications and conduct a dispositional
16 hearing within its usual time frame.

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18 The Court of Appeal also noted that it was remanding this case by
19 stipulation of the parties even though "it could be argued that it is not even
20 remotely probable that the juvenile court would find the present defendant
21 suitable for juvenile court." This Juvenile Court takes that note to mean
22 nothing more than on the face of the facts of this case, transfer is not
23 probable. The Court of Appeal did not mean to suggest that a superficial
24 analysis should be conducted. To the contrary, even in a case such as this,
25 all parties are entitled to due process and a full and fair hearing without any
26 prejudgment.

27 This Court was reminded of the need for a full and fair hearing when on
28 the eve of the transfer hearing here Governor Brown signed into law Senate Bill

1 1391, which amended Proposition 57 and eliminated judicial discretion over
2 transfer hearings for juveniles under the age of 16. This new law is effective
3 January 1, 2019. If it applied in this case, Daniel Marsh would be subject to
4 disposition under the juvenile court jurisdiction and the adult court sentence
5 would be set aside - there would be no transfer hearing. In other words, it
6 will soon be the law of California that even a 15 year old juvenile who commits
7 a brutal double-murder of strangers in his neighborhood will be adjudicated in
8 juvenile court and not adult criminal court, without any weighing of factors.
9 SB 1391 does not apply at this time.

10 Whether this case is final for purposes of appeal is not an issue before
11 this Court. There was ample time in juvenile court to hear the transfer motion
12 before January 1, 2019, which we have done. The decision today here in Juvenile
13 Court is reviewed not by a direct appeal but instead by a petition for
14 extraordinary writ. The parties are hereby advised that any petition for review
15 must be filed no later than 20 days from today's order. In this case, in light
16 of the conditional reversal and remand from the Court of Appeal, the effective
17 date of today's order triggers the 20 day period.

18 As noted the focus here is on Proposition 57 and not adjudication. In
19 other words, the jury's guilty verdict in the adult criminal court on two counts
20 of Penal Code sec. 187 with special circumstances and enhancements is final.
21 This court is not re-adjudicating guilt even if it denies the transfer motion.
22 The transfer hearing is properly before the Court on the prosecutor's motion
23 filed June 21, 2018, along with a petition pursuant to Welfare and Institutions
24 Code sec. 602, alleging the same charges previously adjudicated in adult
25 criminal court.

26 The specific statute that governs this matter is Welfare and Institutions
27 Code sec. 707. The statute sets forth specific factors that shall be considered
28 and weighed by the Juvenile Court. The Court weighs these factors under a

1 totality of circumstances framework. No one factor may be dispositive; nor is
2 each factor entitled necessarily to equal weight. The analysis is done on a
3 case-by-case basis. The statute focuses the Court on the unique developmental
4 characteristics of children and their prior interactions with the juvenile
5 justice system. The intent of the law was to promote rehabilitation and prevent
6 children from reoffending. The burden is on the moving party the prosecutor to
7 prove by a preponderance of evidence that transfer to adult criminal court is
8 warranted under the criteria set forth.

9 As a preliminary matter, the Court found the testimony of Dr. Matthew F.
10 Soulier, M.D. to be highly credible for many reasons. During the adult criminal
11 court proceedings, the defense hired Dr. Soulier to advise regarding Marsh's
12 plea of insanity. When he met with Marsh for the interview, Marsh actually
13 threatened to kill the doctor. Dr. Soulier took the threat seriously and
14 terminated the initial interview. After conducting an analysis, Dr. Soulier
15 concluded in his December 24, 2013 report that he could not support Marsh's
16 insanity defense. He was not used at trial. This time around, Dr. Soulier is
17 the only medical expert before the Court who actually interviewed Marsh for
18 this hearing, which he did towards the end of July 2018, as reflected in his
19 second report dated September 17, 2018. Thus, Dr. Soulier can actually compare
20 the 2013 Daniel Marsh to the 2018 Daniel Marsh - no other expert can. The
21 ultimate opinions set forth in the 2018 report are not overstated and are based
22 on an accurate factual record, whereupon reasonable inferences have been drawn.
23 Moreover, Dr. Soulier has impeccable credentials and is an established leader
24 in the field of adolescent psychiatry and juvenile delinquency. Finally, Dr.
25 Soulier is invested in this community, having taught at UC Davis for nearly a
26 decade.

27 Now, under section 707 (a) (2), the initial consideration is the degree of
28 criminal sophistication exhibited by the minor. Here, the evidence weighs

1 heavily in favor of granting the motion to transfer. Notably, Marsh made every
2 effort to conceal his crime. His internet searches showed that he studied the
3 acts and lives of serial killers. That night, he went out late, dressed in all
4 black, including pants, shirt, socks, and jacket. He left home with the intent
5 to kill, after sharpening his knife. He wore black ski mask and gloves. He
6 had stolen the mask from the Big 5 retail store with the crime in mind. He
7 taped his shoes so that he would not leave foot prints. He canvassed the
8 neighborhood for an optimal target for easy entry and to avoid detection. After
9 he stabbed the victims to death, he then placed a glass tumbler into the male
10 victim and a cell phone into the female victim with the purpose of confusing
11 law enforcement. It is also not lost on the Court that when Marsh went out
12 days later with the intent to kill, he was again focused on avoiding detection
13 and decided on using a bat instead of a knife to further distract law
14 enforcement. By his own admission his main objective was to remain undetected
15 and to become a serial killer. This was a highly sophisticated, extraordinary
16 and rare crime even for the most hardened and seasoned adult criminal.

17 The law mandates that the Juvenile Court consider mitigating
18 circumstances. Dr. Soulier opined that Marsh experienced childhood trauma and
19 that individuals respond to trauma in different ways. He explained that trauma
20 can lead to a mental health illness or disorder, including the symptoms of
21 suicidal and homicidal ideations. If the trauma can be addressed, then the
22 mental health can be treated and the risk of reoffending could be mitigated.

23 Marsh repeatedly cites to his parents' divorce as traumatic. A review of
24 Marsh's school records show that he was a normal, friendly, well-adjusted
25 student at Waldorf School in Davis up to and through fourth grade. There is
26 simply no compelling evidence in the record that he showed any signs of being
27 a psychopath at any time before the summer of 2007. On or about July 4, 2007,
28 his mother took her two children and left the father. She was unhappy in the

1 marriage and was involved for some time in a same-sex extra-marital affair with
2 Marsh's kindergarten teacher. Marsh testified that he was aware of the affair
3 and that it was confusing to him and made him angry. The mother moved nearby.
4 Marsh spent several years back and forth in a shared custody arrangement between
5 his parents. The parents never co-parented and remained in high conflict. It
6 should be noted that the mother suffered from depression for years, and a few
7 years into the divorce the father took a disability retirement. By both the
8 mother and Marsh's account, the father was a bitter, angry and self-absorbed
9 man. In reviewing the records including the divorce case, there can be no
10 question, however, that both parents loved and cared for Marsh, notwithstanding
11 their imperfections as parents.

12 Marsh also points to the day in November 2009 when his father suffered a
13 heart attack while driving with him to the hospital and Marsh actually revived
14 his father in the car and saved his life. One view of this might be that Marsh
15 was a hero - he was publicly recognized and praised, but Marsh's mother and
16 Marsh himself say that he was really never the same after that day. In fact,
17 by late spring 2010, Marsh was suicidal and was taken to Kaiser for treatment.
18 But over the course of the next year, he only saw a mental health professional
19 twice. In the summer 2011, an adult friend named Boris who Marsh had become
20 close to committed suicide and that sent Marsh into another tailspin. Over the
21 years, Marsh has repeatedly referenced his adult friend's suicide as traumatic
22 for him.

23 After the divorce and over this period, Marsh developed a mental health
24 illness. He was diagnosed numerous times with various conditions, most
25 frequently with depression. He was treated over the years by both private
26 counselors and psychiatrists at Kaiser and school mental health counselors. He
27 was hospitalized two times: the first in December 2011 for anorexia and the
28 second in December 2012 on a Welfare and Institutions Code sec. 5150 hold, as

1 a danger to self or others. In between, the school designated Marsh as
2 Emotionally Disturbed and placed him a special education program. He repeatedly
3 disclosed over the years leading up to the murders that he was both suicidal
4 and homicidal. This is not normal. Something had happened to Marsh from the
5 summer of 2007 up to his second hospitalization at the end of 2012. He was
6 very sick at that time.

7 While these circumstances may not cause trauma in an average human being,
8 they did cause trauma in the life of Daniel Marsh.

9 From the stress of the divorce and the onset of depression, Marsh
10 gradually developed a toxic lifestyle. By the fall 2012, he started skipping
11 school and otherwise causing disruptions at school. His grades suffered. He
12 started a dysfunctional dating relationship with a young girl who consensually
13 participated in rough or violent sex, including Marsh choking the girl. He and
14 his girlfriend and a small group of male friends used drugs regularly and
15 watched "gore porn" and discussed their anger and hatred for others. His social
16 media posts and personal drawings became more graphic and horrific and focused
17 on killing and death. It was all very dark.

18 The start of this dark period was the year following his first
19 hospitalization and the summer after his father had kicked him out of the house.
20 Meanwhile, his mother had developed a serious brain condition and had surgery
21 twice during this two year period. Marsh spent time at home caring for his
22 sick mother. The mother was unable to enforce any curfew and without his father
23 watching over him, Marsh was free to come and go as he pleased and had no real
24 accountability in life. Moreover, from the summer of 2012 up to the murders in
25 April 2013, Marsh had virtually no meaningful contact with his father.

26 Dr. Soulier places blame on Marsh's parents. Clearly, the mother was
27 overwhelmed with Marsh's poor and unstable mental health condition at a time
28 when the father was not involved in the boy's life. On January 16, 2013 - just

1 a few weeks after the second hospitalization, Marsh reported homicidal thoughts
2 to a school counselor who then issued a Tarasoff warning to the school. Instead
3 of showing a heightened concern, the mother then terminated school counseling
4 and relied only on private counseling at Kaiser. The best recommended treatment
5 for Marsh included intensive outpatient therapy at Kaiser, which meant regular
6 if not daily group therapy in addition to individual therapy, but the mother in
7 effect excused Marsh from the group therapy because he did not want to attend.
8 The mother was also aware of a residential school program where Marsh could
9 have been placed into a controlled setting. Marsh's school counselors had
10 discussed this several times with the mother. This would have taken him away
11 from and out of the dark lifestyle. But the mother believed that Marsh was
12 getting better or at least stabilizing and made no effort to enroll Marsh in
13 residential school. She also made no effort to know what he was watching on
14 his laptop of what drawings he was making in his room. Meanwhile on February
15 22, 2013, Marsh disclosed killing cats to his Kaiser therapist, an obvious sign
16 of growing and disturbing distress. Then, on March 26, 2013 Marsh once again
17 reported generalized homicidal thoughts. Over these sessions and over the
18 years, Marsh regularly told his counselors that he wanted to get better and his
19 thoughts were nearly always generalized. The one or two times that his homicidal
20 thoughts became more particularized, they were addressed: first by the 5150
21 hospitalization and then by the Tarasoff warning. At all other times, Marsh
22 denied any specific homicidal thoughts. In retrospect, it is easy to criticize
23 both parents for failing to co-parent and not supporting a more robust treatment
24 plan. But placing the blame on the mother and father really misses the point.
25 No one is to blame for the crimes except Daniel Marsh.

26 In sum, Marsh's serious mental health illness is somewhat of a mitigating
27 factor. He was sick at the time. There are no other mitigating factors. Marsh
28 was not particularly immature. He was not particularly young - one month shy

1 of his 16th birthday. His IQ and intelligence was tested to be at a high or
2 superior level. He was not from a poor or disadvantaged family, where food,
3 clothing and shelter are scarce. His parents were not drug addicts. He was not
4 subject to any peer pressure to commit these crimes. There was no serious
5 domestic violence. His parents with all their own medical and emotional
6 problems were loving parents.

7 There is now a question about whether he was physically abused as a child.
8 Upon review of the record, however, there is no compelling evidence to support
9 that Marsh was physically abused other than his recent self-report. Just this
10 year, in his Ted Talk, Marsh himself claimed that he was sexually abused sometime
11 around the age of 4. He refused to answer questions about this at the hearing.
12 He also testified that his father smacked him or slapped him a few times during
13 his early childhood. These are memories that he is just now disclosing. On
14 one hand, physical and sexual abuse could be a mitigating trauma. On the other
15 hand, the evidence is vague and conclusory as to what happened and what impact
16 it had on Marsh. This claim is addressed further below.

17 In sum, the issue of the sophistication of the crime, even considering
18 the mitigating factor of his poor mental health at the time, weighs heavily in
19 favor of transfer out to adult criminal court.

20 The next consideration is whether the juvenile can be rehabilitated before
21 he turns 25 years old. In the context of this case, rehabilitation means that
22 there is no chance that he will commit murder or any serious or violent crime
23 again. For Daniel Marsh, the consequences of recidivism are so severe that
24 rehabilitation must be certain. The baseline for this analysis is his desire
25 in April 2013 to become a serial killer and then the double-murder he executed
26 at that time.

27 Marsh has begun the process of rehabilitation inside the state prison
28 system. First, he has attended individual counseling on a regular basis for

1 over two years. In doing so, he has a good bond with his individual counselor
2 and has built a foundation for continued progress. Second, he has attended and
3 completed several group therapy programs. These efforts, however, are all
4 relatively recent in the past six months. For several years while incarcerated
5 he refused to participate. But he has made progress, and there is no record
6 that he has been disruptive in group therapy. Third, he successfully
7 participated in the Ted Talk program. This again is a development from early
8 2017 to the present. He worked closely with the event staff to contribute to
9 the 2017 program and to be a speaker at the 2018 program. The Court accepts
10 Marsh' testimony that this was a rewarding experience for him. Fourth, as Dr.
11 Soulier testified Marsh is not exhibiting any signs of a mental illness at this
12 time. He is also not taking any psychotropic medication. Fifth, Marsh has not
13 incurred any major prison or jail rule violations in the past couple years.
14 Dr. Soulier emphasizes that Marsh has not been violent since he was incarcerated
15 in 2013. Sixth, he claims to be drug free, although this also is a relatively
16 new way of life after admitting that he was using heroin in prison up to early
17 2017. Finally, he has made a recent attempt at showing remorse for his crimes
18 by trying to address the families of the victims in his statements to the
19 Probation Officer and in Court.

20 As the prosecution points out, Marsh tested in 2015 on the PCL-R scale at
21 the high end for criminal psychopathy. He scored a 35.8 out of 40. Dr. Logan
22 testified that a person of Marsh's profile virtually cannot be rehabilitated.
23 There is research to support this generalized conclusion. Dr. Logan did not
24 interview Marsh, however. The expert also conceded that some of the factors
25 that make up the PCL-R are dynamic and that retesting a juvenile as he matures
26 would be a helpful risk assessment tool. Dr. Logan further testified that the
27 PCL-R was not designed as a risk assessment tool and that while he uses the
28 PCL-R, he also always uses as many as three different tools when assessing

1 inmates for risk of recidivism. None of those tools were used here to aid the
2 Court. Moreover, from what we know about the development of the brain between
3 childhood and adulthood, that understanding further warrants caution when
4 relying heavily on a PCL-R conducted in 2015 at the age of 18. There is no
5 question that the crimes here were committed by a psychopath who was also
6 suffering a mental illness. The more difficult question is whether Marsh is
7 still a psychopath with criminal desires and whether that personality trait can
8 be rehabilitated. As both experts pointed out, most psychopaths are not
9 criminals. Moreover, based on Dr. Logan's description of juvenile psychopaths,
10 Marsh did not exhibit any signs really before he entered 7th grade in 2009.
11 The claim that Marsh is a dangerous psychopath is not dispositive here.

12 What is of more important to the Court is understanding the scope of the
13 individualized rehabilitation needed in this case. The Court accepts that Marsh
14 experienced childhood trauma. The Court also finds that the actual crime - a
15 horrific killing and mutilation of two human beings - is a traumatic event.
16 Marsh admitted in his testimony and his therapist Dr. Huffman's records support
17 that he has never addressed either trauma in any meaningful way. His in-prison
18 therapy has been focused on learning how to cope with prison life and finding
19 ways to live a meaningful life in prison. To this end, he has shown progress.

20 He has been incarcerated for over five years, however. He has been given
21 ample opportunity for both individual and group therapy. He has never discussed
22 the alleged sexual abuse which was a cornerstone of his Ted Talk. His counseling
23 has been superficial as to his other childhood traumas. He has made no real
24 effort at family therapy or understanding what truly caused his trauma. And
25 the notes reflect that he repeatedly claims in therapy that he does not remember
26 the murders. At one point back in 2015, he did report having flashbacks and he
27 did break down when discussing the murders. Since then, nothing. He did not
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1 take responsibility in his Ted Talk for the crimes, only making a vague passing
2 reference.

3 The Court's concern is that these traumas are triggers. The Court viewed
4 the crime scene photos of the victims. They are haunting images. Marsh is
5 intentionally blocking out these memories; it was apparent during his testimony.
6 His success to date is merely finding a way to live constructively and at peace
7 while incarcerated. Marsh has always done well when in a controlled setting.
8 He recovered from anorexia in 2011 and he stabilized briefly in 2012 after his
9 second hospitalization. It is possible he would have done well in a residential
10 school. But what happens when he is not in a controlled setting.

11 This is where the fragile psyche is a concern. The childhood traumas
12 that he reported, namely the divorce, his father's heart attack, the death of
13 an adult friend, the school-yard bullying are simply not the kind of traumas
14 that create serial killers. In other words, given Marsh's emotional make-up,
15 the effort and scope of his counseling, therapy and rehabilitation would need
16 to match the degree of risk he poses. The therapy and treatment and Marsh's
17 commitment thereto would have to be up to the enormous challenge of
18 rehabilitation. It would require reflections of insight that are presently
19 nowhere in sight.

20 Based on the record before the Court and given that he has not addressed
21 the main traumas in his life at all in the five years since the crime, there is
22 virtually no chance that Marsh will be rehabilitated before he turns 25 years
23 old - it is certainly not a likelihood. It should be noted that the Court has
24 reached this conclusion while giving credit to Marsh's testimony. The Court
25 did not find him to be making any effort to manipulate or mislead the Court in
26 any way. His tone and demeanor were appropriate and matched the seriousness of
27 the moment. If he laughed or smiled during his testimony it was merely a
28 reflection of positive experiences he has had while in custody and reflected

1 the fact that he found his lawyer to be a kind and supportive person. He made
2 several admissions that seemed genuine and actually hurt his case, for example
3 his refusal to discuss the alleged sexual abuse as a child and his extensive
4 drug use while incarcerated, among other admissions. His Ted Talk appeared
5 genuine and well done. But it all falls far short, given the enormity of the
6 problem - namely, a fragile emotional condition that can be triggered by events
7 that others can simply resolve with therapy and support.

8 The defense produced an expert witness from the Division of Juvenile
9 Justice. The Court found Dr. Yip to be highly credible. In short, however,
10 DJJ does not have any programming directed at someone like Marsh, who when he
11 committed the murders desired to be a serial killer. Because Proposition 57 is
12 new, there simply are not juveniles in the system with anywhere near the same
13 needs as Marsh. It is also true that the best experience for Marsh on his
14 efforts to rehabilitate in prison has been the Ted Talk, and there was no
15 evidence that this was available at DJJ. At this time, the programs and the
16 environment at DJJ are not sufficiently better to make a material difference in
17 this case.

18 To sum up this point, Marsh is coping well with being incarcerated: he is
19 not exhibiting the signs of a serious mental illness. He has gained some
20 insight and become more mindful, as Dr. Soulier concluded. This is a positive
21 development. But this is merely coping in the most controlled environment; he
22 has not made any meaningful progress on addressing the triggers of childhood
23 and incident trauma that pose a risk to society. Even Dr. Soulier could not
24 say beyond a reasonable medical certainty that Marsh was likely to be
25 rehabilitated within the time. Moreover, this is not just a medical question.
26 Rather, it is a legal determination based on input from a medical expert, the
27 facts before the Court, and the exercise of reasoned judicial discretion. The
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1 issue of rehabilitation weighs heavily in favor of transfer out to adult
2 criminal court.

3 The statute also requires the juvenile court to consider the juvenile's
4 prior delinquency record and previous attempts to rehabilitate the minor within
5 the juvenile justice system. These two factors can be important in many cases
6 where the child has been in the system before. Marsh, however, had no run-ins
7 with the law. To the contrary, he had been praised publicly as a hero after
8 saving his father's life in 2009 and by 2011 he actually attended the Davis
9 Police Academy for youth. There is some evidence of setting fires as a juvenile,
10 one of which was serious enough to get a response from the Fire Department. He
11 also self-reported killing cats and hurting other animals. The prosecution
12 here pointed to other misdeeds. The statute mandates that the Court consider
13 these factors. Here, the fact that Marsh did not have a record is a positive
14 for him. [Note: Marsh's ongoing and current efforts at rehabilitation are
15 discussed above.] The lack of a juvenile delinquent record is, however, heavily
16 outweighed by the seriousness and gravity of the crimes at issue.

17 The final consideration is the gravity and circumstances of the offense.
18 This was a double-murder. Marsh admitted to committing the crimes. In his
19 police interview, Marsh explained that he had lost control because the buildup
20 was unbearable and he went searching for in his words a "good victim" who had
21 an open window or door through which he could enter. He tried about 50 doors
22 and windows. When he found one, he cut a flap in the window screen, followed
23 the snoring to the bedroom, and excitedly watched the victims sleep with
24 anticipation of what he planned to do. Once he had entered the home, he did
25 not want to back out.

26 When Claudia Maupin awoke, Marsh stabbed her repeatedly in the torso until
27 he ceased momentarily only to stab Chip Northrup in the neck because he had
28 awoken. Because Maupin "wouldn't die," he stabbed her for a long time while

1 she screamed and begged him to stop. When she lay "twitching," he stabbed
2 Northrup in the torso. After confirming both were dead, Marsh continued
3 stabbing them because in his words, "it just felt right." He then "messed
4 around" with the bodies, putting a phone inside one and cup inside the other.
5 He described cutting the female open to see "what fat actually looks like." He
6 also cut open the torso and head to further explore. Marsh also punched the
7 male after he was dead. In his words, when the victims "shit themselves," he
8 decided to leave. He claimed in the interview that the murders were "the most
9 exhilarating, enjoyable feeling [he'd] ever felt."

10 According to the autopsies, Chip Northrup suffered 61 separate wounds and
11 Claudia Maupin suffered 67 wounds. A good summary of the autopsies and this
12 portion of Marsh's interview can be found in the prosecutor's opening brief
13 pages 9-11 and 17-18.

14 At all times, Marsh acted alone. As noted there was no peer pressure of
15 any kind to commit these murders. In fact, in the days that followed, Marsh
16 bragged to his friends who had no idea he actually intended to commit the
17 murders. Clearly, these post-crime disclosures reflect the behavior of a
18 juvenile, and it is ultimately how and why Marsh was caught and arrested.

19 The harm caused by these crimes is incalculable. The Court heard from
20 several members of Chip Northrup and Claudia Maupin's family. The Court also
21 received a few dozen letters from community members. The statements which carry
22 the most weight here are those who have personally experienced some mental
23 distress or fear because of these crimes. It is reasonable for family members,
24 neighbors, children in the community to live in some fear because of these
25 crimes.

26 In particular, the Court heard from family members Merida Murray, Victoria
27 Hurd, Sarah Rice, Patricia Rother, KC Cameron and Mary Northrop. There was a
28 common theme that ran through these statements. They loved Claudia Maupin and

1 Chip Northrup very much and were still in intense grieving over their deaths.
2 They also harbored intense anger towards Marsh. From the statements, it
3 appeared to the Court that the anger arose from the brutality of the killings.
4 The pain and suffering was palpable. The emotional distress caused by these
5 crimes was different from, for example, that experienced in a drive-by shooting
6 or botched home burglary. It was learning about the mutilation of the bodies
7 and the serial killer modus operandi that added to what would already be an
8 unbearable loss.

9 It is the Court's job to put these victim impact statements into context.
10 They are important to the analysis, but they are not solely dispositive. The
11 Court must consider all of the factors set forth in the statute, including the
12 mitigating factors. A fact finder, whether it be a jury or judge, cannot be
13 overcome with emotion when deciding a case but must have an appreciation for
14 the emotion of all victims and appropriately weigh and balance that harm against
15 the other facts in the case.

16 In sum as to this factor, there are no mitigating considerations. Based
17 on the facts and circumstances of the crimes, the gravity of these offenses
18 committed by Marsh weighs heavily in favor of transfer out to adult criminal
19 court.

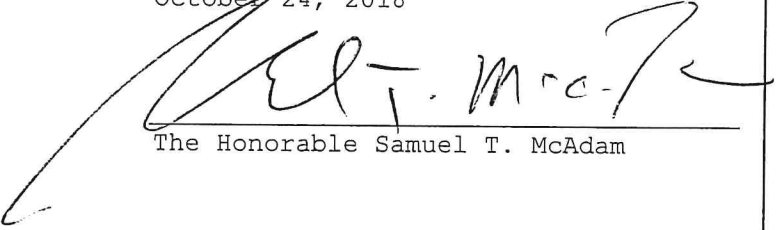
20 In conclusion, the seriousness of the offense, both in terms of
21 sophistication of the crime and the gravity of the offense, along with the
22 finding that Marsh has made little progress in rehabilitation in the past five
23 years, support the ultimate ruling of this Court to transfer the case to adult
24 criminal court. There is a preponderance of evidence to support this Order.
25 For these reasons and based on the totality of circumstances, the motion to
26 transfer is GRANTED.

1 This ruling is based on the evidence produced at the hearing, including
2 the Probation Report and the exhibits marked and admitted into evidence and
3 those identified by the prosecutor and defense from the adult criminal trial.

4 The criminal judgment in case CRF-13-2418 is reinstated. The defendant
5 is remanded to State Prison (CDCR) to serve the balance of an indeterminate
6 life sentence with a minimum of 52 years.

7 IT IS SO ORDERED.

8 Signed in Woodland, California on
9 October 24, 2018

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12 The Honorable Samuel T. McAdam
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