

APPENDIX A

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
OF FLORIDA, IN AND FOR MARION COUNTY.
CRIMINAL ACTION.

CASE NO. 81-170

STATE OF FLORIDA,)
)
Plaintiff,)
)
vs.)
)
IAN LIGHTBOURN,)
)
Defendant.)

VOLUME SEVEN OF SEVEN
VOLUMES

FILED
SEP 3 4 51 PM '81
CLERK OF CIRCUIT COURT
MARION COUNTY, FLA.

PROCEEDINGS: Jury Trial

BEFORE: The Honorable William T. Swigert
Circuit Judge
Fifth Judicial Circuit of Florida
Ocala, Florida 32670

PLACE: Courtroom "A"
Marion County Courthouse
Ocala, Florida 32670

REPORTED BY: Charles E. Brandies, RPR, CSR,
Official Court Reporter
Fifth Judicial Circuit of Florida
Ocala, Florida 32670

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1 (These proceedings are continued from Volume Six).

2 BY THE COURT: Members of the Jury, it is now your
3 duty to advise the Court as to what punishment should
4 be imposed upon the Defendant for his crime of first
5 degree murder. As you have been told, the final
6 decision as to what punishment shall be imposed is the
7 responsibility of the Judge. However, it is your duty
8 to follow the law which will now be given to you by the
9 Court and render to the Court an advisory sentence
10 based upon your determination as to whether sufficient
11 aggravating circumstances exist to justify the
12 imposition of the death penalty and whether sufficient
13 mitigating circumstances exist to outweigh any
14 aggravating circumstances found to exist.

15 Your verdict should be based upon the evidence
16 which has been presented to you in these proceedings.
17 The aggravating circumstances which you may consider
18 are limited to such of the following as may be
19 established by the evidence.

20 One, that the crime for which the Defendant is to
21 be sentenced was committed while the Defendant was
22 under sentence of imprisonment.

23 Two, that at the time of the crime for which he is
24 to be sentenced the Defendant had previously been
25 convicted of another capital offense or a felony

1 involving the use or threat of violence to some person.

2 Three, that the Defendant, in committing the
3 crime for which he is to be sentenced, knowingly
4 created a great risk of death to many persons.

5 Four, that the crime for which the Defendant is
6 to be sentenced was committed while the Defendant was
7 engaged in the commission of or an attempt to commit or
8 flight after committing, or attempting to commit any
9 robbery, arson, burglary, kidnapping, aircraft piracy,
10 or the unlawful throwing, placing or discharging of a
11 destructive device or bomb.

12 Next, that the crime for which the Defendant is
13 to be sentenced was committed for the purpose of
14 avoiding or preventing a lawful arrest or effecting an
15 escape from custody.

16 Next, that the crime for which the Defendant is
17 to be sentenced was committed for pecuniary gain.

18 Or, that the crime for which the Defendant is to
19 be sentenced was committed to disrupt or hinder the
20 lawful exercise of any governmental function or the
21 enforcement of laws.

22 Or, that the crime for which the Defendant is to
23 be sentenced was especially heinous, atrocious or cruel.

24 Heinous means extremely wicked or shockingly evil.

25 Atrocious means outrageously wicked and vile.

1 Cruel means designed to inflict a high degree of
2 pain, utter indifference to or enjoyment of the
3 suffering of others, or pitiless.

4 Or, the capital felony, homicide, was committed
5 in a cold, calculated and premeditated manner without
6 any pretense of moral or legal justification.

7 If you do not find that there existed sufficient
8 of the aggravating circumstances which have been
9 described to you, it will be your duty to recommend a
10 sentence to life imprisonment.

11 Should you find sufficient of these aggravating
12 circumstances to exist, it will then be your duty to
13 determine whether or not sufficient mitigating
14 circumstances exist to outweigh the aggravating
15 circumstances found to exist. The mitigating
16 circumstances which you may consider, if established
17 by the evidence, are these:

18 (A), that the Defendant has no significant history
19 of prior criminal activity.

20 (B), that the crime for which the Defendant is to
21 be sentenced was committed while the Defendant was
22 under the influence of extreme mental or emotional
23 disturbance.

24 (C), that the victim was a participant in the
25 Defendant's conduct or consented to the act.

1 (D), that the Defendant was an accomplice in the
2 offense for which he is to be sentenced but the
3 offense was committed by another person and the
4 Defendant's participation was relatively minor.

5 (E), that the Defendant acted under extreme
6 duress or under the substantial domination of another
7 person.

8 (F), the capacity of the Defendant to appreciate
9 the criminality of his conduct or to conform his
10 conduct to the requirements of law was substantially
11 impaired.

12 (G), the age of the Defendant at the time of the
13 crime.

14 (H), any aspect of the Defendant's character or
15 record and any of the circumstances of the offense
16 that the Defendant proffered as a basis for a sentence
17 less than death.

18 Aggravating circumstances must be established
19 beyond a reasonable doubt before they may be considered
20 by you in arriving at your decision. Proof of an
21 aggravating circumstance beyond a reasonable doubt is
22 evidence by which the understanding, judgment and
23 reason of the Jury are well satisfied and convinced to
24 the extent of having a fully, firm and abiding
25 conviction that the circumstances have been proved to

1 the exclusion of and beyond a reasonable doubt.

2 Evidence to establish an aggravating circumstance
3 which does not convince you beyond a reasonable doubt
4 of the existence of such circumstance at the time of
5 the offense should be wholly disregarded.

6 If one or more aggravating circumstances are
7 established, you should consider all the evidence
8 tending to establish one or more mitigating circumstances
9 and give that evidence such weight as you feel it
10 should receive in reaching your conclusion as to the
11 sentence which should be imposed.

12 The sentence which you recommend to the Court must
13 be based upon the facts as you find them from the
14 evidence and the law as given to you by the Court.
15 Your verdict must be based upon your finding of whether
16 sufficient aggravating circumstances exist and whether
17 sufficient mitigating circumstances exist which outweigh
18 any aggravating circumstances found to exist. Based on
19 these considerations, you should advise the Court
20 whether the Defendant should be sentenced to life
21 imprisonment or to death.

22 In these proceedings it is not necessary that the
23 verdict of the Jury be unanimous, but a verdict may be
24 rendered upon the finding of a majority of the Jury.

25 The fact that the determination of whether or not