

No. \_\_\_\_\_

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IN THE  
**SUPREME COURT OF THE UNITED STATES**

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GILBERTO MULGADO,  
*Petitioner,*

v.

STATE OF FLORIDA,  
*Respondent.*

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**On Petition for Writ of Certiorari  
to the Florida Second District Court of Appeal**

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**APPENDIX TO PETITION FOR WRIT OF CERTIORARI**

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DISTRICT COURT OF APPEAL OF FLORIDA  
SECOND DISTRICT

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GILBERTO MULGADO,

Appellant,

v.

STATE OF FLORIDA,

Appellee

No. 2D19-2362

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August 18, 2021

Appeal from the Circuit Court for Lee County; Joseph C. Fuller,  
Judge.

Michael Ufferman of Michael Ufferman Law Firm, P.A., Tallahassee,  
for Appellant.

Ashley Moody, Attorney General, Tallahassee, and Ceresse Crawford  
Taylor and Jeffrey H. Siegal, Assistant Attorneys General, Tampa,  
for Appellee.

PER CURIAM.

Affirmed.

MORRIS, C.J., and KELLY and LABRIT, JJ., Concur.

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Opinion subject to revision prior to official publication.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
SECOND DISTRICT, POST OFFICE BOX 327, LAKELAND, FL 33802-0327

October 28, 2021

**CASE NO.: 2D19-2362**

L.T. No.: 17-CF-28

GILBERTO MULGADO

v.

STATE OF FLORIDA

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Appellant / Petitioner(s),

Appellee / Respondent(s).

**BY ORDER OF THE COURT:**

Appellant's motion for rehearing, written opinion, and/or request to certify the question of great public importance is denied.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

ATTORNEY GENERAL, TAMPA  
JEFFREY H. SIEGAL, A. A. G.  
GILBERTO MULGADO

CERESE CRAWFORD TAYLOR, A.A.G.  
MICHAEL ROBERT UFFERMAN, ESQ.  
LINDA DOGGETT, CLERK

mep

*Mary Elizabeth Kuenzel*

Mary Elizabeth Kuenzel  
Clerk



State of Florida

VS

Mulgado, Gilberto Antonio

In the Circuit Court, 20th Judicial Circuit,  
in and for Lee County, Florida

Division **Felony**

Case Number **17-CF-000028**

**JUDGMENT**

The defendant, Mulgado, Gilberto Antonio being personally before this court represented by Christopher Hayden Brown, the attorney of record, and the state represented by Jessica Inez Horowitz, and having

☒ been Tried and found Guilty by jury/by court of the following crime(s), count(s) 1

<u>Cnt</u>	<u>Crime</u>	<u>Offense Statute</u>	<u>Degree</u>	<u>Case Number</u>	<u>OBTS Number</u>
1	CUSTODIAL SEXUAL BATTERY	794.011(8)(b)	Felony - First Degree	17-CF-000028	3607138251

☒ And no cause being shown why the defendant should not be adjudicated guilty, IT IS ORDERED THAT the defendant is hereby ADJUDICATED GUILTY of the above crime(s). Count(s) 1

☒ And being a qualified offender pursuant to section 943.325, the defendant shall be required to submit DNA samples as required by law. Count(s) 1

DONE AND ORDERED in open court in Lee County, Florida, this 10th day of June, 2019.

  
Judge Joseph C. Fuller Jr.

State of Florida

VS

Mulgado, Gilberto Antonio

In the Circuit Court, 20th Judicial Circuit,  
in and for Lee County, Florida

Division **Felony**

Case Number **17-CF-000028**

CHARGES / COSTS / FEES

The Defendant is hereby ordered to pay the following fees:

(Refer to the further recommended provisions listed at the end of this document for additional information if applicable.)

- ☒ A sum of \$50.00 pursuant to section 938.03, Florida Statutes (Crime Compensation Trust Fund).
- ☒ A sum of \$3.00 as a court cost pursuant to section 938.01, Florida Statutes (Criminal Justice Trust Fund).
- ☒ A sum of \$201.00 pursuant to section 938.08, Florida Statutes (Domestic Violence).
- ☒ A sum of \$100.00 pursuant to section 938.27, Florida Statutes (Prosecution/Investigative Costs).
- ☒ A sum of \$65.00 pursuant to section 939.185, Florida Statutes (Additional Court Costs).
- ☒ A sum of \$50.00 pursuant to section 775.083(2), Florida Statutes (Court Costs Crimes Prevention).
- ☒ A sum of \$20.00 pursuant to section 938.06, Florida Statutes (Crime Stoppers Trust Fund).
- ☒ A sum of \$151.00 pursuant to section 938.085, Florida Statutes (Fund Rape Crisis Centers).
- ☒ A sum of \$151.00 pursuant to section 938.10, Florida Statutes (Additional Costs in Cases Against Minors).
- ☒ A sum of \$225.00 pursuant to section 938.05, Florida Statutes (Additional Court Costs).

DONE AND ORDERED in open court in Lee County, Florida, this 10th day of June, 2019.



Judge Joseph C Fuller Jr.

Defendant: Mulgado, Gilberto Antonio

Case Number: 17-CF-000028

OBTs Number: 3607138251

SENTENCE (As to Count 1)

The defendant, being personally before this court, accompanied by the defendant's attorney of record, Christopher Hayden Brown, and having been adjudicated guilty herein, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown

☒ And the Court having on 05/02/2019 deferred imposition of sentence until this date.

It is the sentence of the Court that:

☒ The defendant is hereby committed to the custody of the Department of Corrections.

Be Imprisoned:

☒ For a term of 30 Year(s) (Department of Corrections State Prison).

Split Sentence:

Not Applicable



Defendant: Mulgado, Gilberto Antonio

Case Number: 17-CF-000028

OBTS Number: 3607138251

**SPECIAL PROVISIONS**

(As to Count 1)

By appropriate notation, the following provisions apply to the Sentence imposed:

**Mandatory/Minimum Provisions:**

Not Applicable

**Other Provisions:**

Jail Credit



It is further ordered that the defendant shall be allowed a total of 42 Day(s) as credit for time incarcerated before imposition of this sentence.

CREDIT FOR TIME SERVED IN RESENTENCING AFTER VIOLATION OF PROBATION OR COMMUNITY CONTROL

Not Applicable

Consecutive/Concurrent as to Other Counts

Not Applicable

Consecutive/Concurrent as to Other Convictions

Not Applicable

In the event the above sentence is to the Department of Corrections, the Sheriff of Lee County, Florida, is hereby ordered and directed to deliver the defendant to the Department of Corrections at the facility designated by the department together with a copy of this judgment and sentence and any other documents specified by Florida Statute.

The defendant in open court was advised of the right to appeal from this sentence by filing notice of appeal within 30 days from this date with the clerk of this court and the defendant's right to the assistance of counsel in taking the appeal at the expense of the state on showing of indigency.

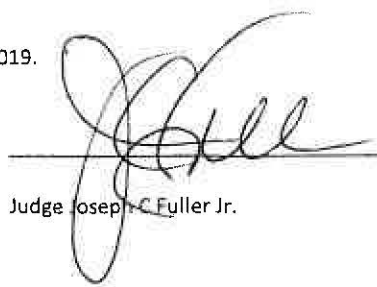
In imposing the above sentence, the court further recommends:

- ☒ Def Designated Sexual Predator, Must Reg as Sexual Predator
- ☒ Defendant Determined to be Sexual Predator
- ☒ DNA Sample to the FDLE DNA Database
- ☒ Monetary Obligations Reduced to a Civil Judgment
- ☒ No Contact with Victim
- ☒ The Clerk of Court will Disburse Monies Paid per Florida Law

COMMENTS:

Not Applicable

DONE AND ORDERED in open court in Lee County, Florida, this 10th day of June, 2019.



Judge Joseph C. Fuller Jr.

Carbon copies of this document are made available to the following parties online upon request on or after:  
06/18/2019  
State Attorney Office  
Defendant/Attorney of Record  
Department of Corrections