No.

IN THE SUPREME COURT OF THE UNITED STATES

SCOTTIE ANDREA JACKSON, PETITIONER

v.

STATE OF FLORIDA, RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI TO THE FOURTH DISTRICT COURT OF APPEAL OF FLORIDA

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

CAREY HAUGHWOUT
Public Defender

Paul Edward Petillo
Assistant Public Defender
Counsel of Record

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DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

SCOTTIE ANDREA JACKSON,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D21-3551

[February 1, 2023]

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, Indian River County; Dan L. Vaughn, Judge; L.T. Case No. 312020CF000783A.

Carey Haughwout, Public Defender, and Paul Edward Petillo, Assistant Public Defender, West Palm Beach, for appellant.

Ashley Moody, Attorney General, Tallahassee, and Melynda L. Melear, Senior Assistant Attorney General, West Palm Beach, for appellee.

ON MOTION FOR WRITTEN OPINION

PER CURIAM.

We grant appellant's motion for written opinion and substitute the following opinion for the original one.

Affirmed. See Guzman v. State, 350 So. 3d 72 (Fla. 4th DCA 2022), *rev. pending*, No. SC22-1597.

GROSS, LEVINE and CONNER, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.

Supreme Court of Florida

WEDNESDAY, JUNE 14, 2023

Scottie Andrea Jackson,
Petitioner(s)
v.
State of Florida,
Respondent(s)

SC2023-0166
Lower Tribunal No(s).:
4D21-3551
312020CF000783AXXXXX

This case is hereby dismissed. This Court lacks jurisdiction to review an unelaborated decision from a district court of appeal that is issued without opinion or explanation or that merely cites to an authority that is not a case pending review in, or reversed or quashed by, this Court. *See Wheeler v. State*, 296 So. 3d 895 (Fla. 2020); *Wells v. State*, 132 So. 3d 1110 (Fla. 2014); *Jackson v. State*, 926 So. 2d 1262 (Fla. 2006); *Gandy v. State*, 846 So. 2d 1141 (Fla. 2003); *Stallworth v. Moore*, 827 So. 2d 974 (Fla. 2002); *Harrison v. Hyster Co.*, 515 So. 2d 1279 (Fla. 1987); *Dodi Publ'g Co. v. Editorial Am. S.A.*, 385 So. 2d 1369 (Fla. 1980); *Jenkins v. State*, 385 So. 2d 1356 (Fla. 1980).

No motion for rehearing or reinstatement will be entertained by the Court.

A True Copy
Test:

SC2023-0166 6/14/2023

John A. Tomasino
Clerk, Supreme Court

SC2023-0166 6/14/2023

KS
Served:

SCOTTIE ANDREA JACKSON
MELYNDA L. MELEAR
PAUL EDWARD PETILLO
HON. JEFFREY R. SMITH
HON. DAN L. VAUGHN
HON. LONN WEISSBLUM

ARGUMENT

POINT I

APPELLANT WAS ENTITLED TO A TWELVE-PERSON JURY UNDER THE SIXTH AND FOURTEENTH AMENDMENTS AND HE DID NOT WAIVE THAT RIGHT

Appellant was convicted of felonies by a jury comprised of a mere six people. T 474. He argues that the Sixth and Fourteenth Amendments guarantee the right to a twelve-person jury when the defendant is charged with a felony. The standard of review of constitutional claims is de novo. *See A.B. v. Florida Dept. of Children & Family Services*, 901 So. 2d 324, 326 (Fla. 3d DCA 2005).

Although the Supreme Court held in *Williams v. Florida*, 399 U.S. 78, 86 (1970), that juries as small as six were constitutionally permissible, *Williams* is impossible to square with the Supreme Court's ruling in *Ramos v. Louisiana*, 140 S. Ct. 1390 (2020), which concluded that the Sixth Amendment's "trial by an impartial jury" requirement encompasses what the term "meant at the Sixth Amendment's adoption," *id*. at 1395.

Prior to 1970, subjecting appellant to a trial with only six jurors would have indisputably violated his Sixth Amendment rights. As the *Ramos* Court observed, even Blackstone recognized

that under the common law, "no person could be found guilty of a serious crime unless 'the truth of every accusation … should … be confirmed by the unanimous suffrage of twelve of his equals and neighbors[.]" 140 S. Ct. at 1395. "A 'verdict, taken from eleven, was no verdict' at all." *Id.*

After the Sixth Amendment was enacted, a bevy of state courts—ranging from Alabama to Missouri to New Hampshire—interpreted it to require a twelve-person jury. *See Miller*, *Comment, Six of One Is Not A Dozen of the Other*, 146 U. Pa. L. Rev. 621, 643 n.133 (1998) (collecting cases from the late 1700s to the 1860s). In 1898, the U.S. Supreme Court added its voice to the chorus, noting that the Sixth Amendment protects a defendant's right to be tried by a twelve-person jury. *Thompson v. Utah*, 170 U.S. 343, 349-350 (1898). As the *Thompson* Court explained, since the time of Magna Carta, the word "jury" had been understood to mean a body of twelve people. *Id.* Given that understanding had been accepted since 1215, the Court reasoned, "[i]t must" have been "that the word 'jury'" in the Sixth Amendment was "placed in the constitution of the United States with reference to [that] meaning affixed to [it]." *Id.* at 350.

The Supreme Court continued to cite the basic principle that the Sixth Amendment requires a twelve-person jury in criminal cases for seventy more years. For example, in 1900, the Court explained that "there [could] be no doubt" "[t]hat a jury composed, as at common law, of twelve jurors was intended by the Sixth Amendment to the Federal Constitution." *Maxwell v. Dow*, 176 U.S. 581, 586 (1900). Thirty years later, the Court reiterated that it was "not open to question" that "the phrase 'trial by jury'" in the Constitution incorporated juries' "essential elements" as "they were recognized in this country and England," including the requirement that they "consist of twelve men, neither more nor less." *Patton v. United States*, 281 U.S. 276, 288 (1930). And as recently as 1968, the Court remarked that "by the time our Constitution was written, jury trial in criminal cases had been in existence for several centuries and carried impressive credentials traced by many to Magna Carta," such as the necessary inclusion of twelve members. *Duncan v. Louisiana*, 391 U.S. 145, 151-152 (1968).[1]

[1] *See also*, *e.g.*, *Capital Traction Co v. Hof*, 174 U.S. 1, 13 (1899) ("'Trial by jury,' in the primary and usual sense of the term at the common law and in the American constitutions, is not merely a trial by a jury of 12 men" but also contains other requirements);

In 1970, however, the *Williams* Court overruled this line of precedent in a decision that Justice Harlan described as "stripping off the livery of history from the jury trial" and ignoring both "the intent of the Framers" and the Court's long held understanding that constitutional "provisions are framed in the language of the English common law [] and … read in the light of its history." *Baldwin v. New York*, 399 U.S. 117, 122-123 (1970) (citation omitted) (Harlan, J., concurring in the result in *Williams*). Indeed, *Williams* recognized that the Framers "may well" have had "the usual expectation" in drafting the Sixth Amendment "that the jury would consist of 12" members. *Williams*, 399 U.S. at 98-99. But *Williams* concluded that such "purely historical considerations" were not dispositive. *Id.* at 99. Rather, the Court focused on the "function" that the jury plays in the Constitution, concluding that the "essential feature" of a jury is it leaves justice to the "commonsense judgment of a group of laymen" and thus allows "guilt or innocence" to be determined via

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Rassmussen v. United States, 197 U.S. 516, 529 (1905) ("The constitutional requirement that 'the trial of all crimes, except in cases of impeachment, shall be by jury,' means, as this court has adjudged, a trial by the historical, common-law jury of twelve persons").

"community participation and [with] shared responsibility." *Id.* at 100-01. According to the *Williams* Court, both "currently available evidence [and] theory" suggested that function could just as easily be performed with six jurors as with twelve. *Id.* at 101-102 & n.48; *cf. Burch v. Louisiana*, 441 U.S. 130, 137 (1979) (acknowledging that *Williams* and its progeny "departed from the strictly historical requirements of jury trial").

Williams's ruling that the Sixth Amendment (as incorporated to the States by the Fourteenth) permits a six-person jury cannot stand in light of *Ramos*. There, the Supreme Court held that the Sixth Amendment requires a unanimous verdict to convict a defendant of a serious offense. In reaching that conclusion, the Ramos Court overturned *Apodaca v. Oregon*, 406 U.S. 404 (1972), a decision that it faulted for "subject[ing] the ancient guarantee of a unanimous jury verdict to its own functionalist assessment." 140 S. Ct. at 1401-1402.

That reasoning undermines *Williams* as well. *Ramos* rejected the same kind of "cost-benefit analysis" the Court undertook in *Williams*, observing that it is not the Court's role to "distinguish between the historic features of common law jury trials that (we

think) serve 'important enough functions to migrate silently into the Sixth Amendment and those that don't.'" 140 S. Ct. at 1400-01. Ultimately, the *Ramos* Court explained, the question is whether "at the time of the Sixth Amendment's adoption, the right to trial by jury included" the particular feature at issue. *Id.* at 1402. As the history summarized above establishes, there can be no serious doubt that the common understanding of the jury trial during the Revolutionary War era was that twelve jurors were required—"a verdict, taken from eleven, was no verdict at all." *See* 140 S. Ct. at 1395 (quotation marks omitted).

Even setting aside *Williams's* now-disfavored functionalist logic, its ruling suffered from another significant flaw: it was based on research that was out of date shortly after the opinion issued. Specifically, the *Williams* Court "f[ou]nd little reason to think" that the goals of the jury guarantee—including, among others, "to provide a fair possibility for obtaining a representative[] cross-section of the community"—"are in any meaningful sense less likely to be achieved when the jury numbers six, than when it numbers 12." *Id.* at 100. The Court theorized that "in practice the difference between the 12-man and the six-man jury in terms of the cross-

section of the community represented seems likely to be negligible." *Id.* at 102.

In the time since *Williams*, that determination has proven incorrect. Indeed, the Court acknowledged as much just eight years later in *Ballew v. Georgia*, 435 U.S. 223 (1978), when it concluded that the Sixth Amendment barred the use of a five-person jury. Although *Ballew* did not overturn *Williams*, the *Ballew* Court observed that empirical studies conducted in the handful of intervening years highlighted several problems with *Williams'* assumptions. For example, Ballew noted that more recent research showed that (1) "smaller juries are less likely to foster effective group deliberation," *id.* at 233, (2) smaller juries may be less accurate and cause "increasing inconsistency" in verdict results, *id.* at 234, (3) the chance for hung juries decreases with smaller juries, disproportionally harming the defendant, *id.* at 236; and (4) decreasing jury sizes "foretell[] problems … for the representation of minority groups in the community," undermining a jury's likelihood of being "truly representative of the community," *id.* at 236-37. Moreover, the *Ballew* Court "admit[ted]" that it "d[id] not pretend to discern a clear line between six members and five," effectively

acknowledging that the studies it relied on also cast doubt on the effectiveness of the six-member jury. *Id.* at 239; *see also id.* at 245-46 (Powell, J.) (agreeing that five-member juries are unconstitutional, while acknowledging that "the line between five- and six-member juries is difficult to justify").

Post-*Ballew* research has further undermined *Williams*. Current empirical evidence indicates that "reducing jury size inevitably has a drastic effect on the representation of minority group members on the jury." Diamond et al., *Achieving Diversity on the Jury: Jury Size and the Peremptory Challenge*, 6 J. of Empirical Legal Stud. 425, 427 (Sept. 2009); *see also* Higginbotham et al., *Better by the Dozen: Bringing Back the Twelve-Person Civil Jury*, 104 Judicature 47, 52 (Summer 2020) ("Larger juries are also more inclusive and more representative of the community. … In reality, cutting the size of the jury dramatically increases the chance of excluding minorities."). Because "the 12-member jury produces significantly greater heterogeneity than does the six-member jury," Diamond et al., *Achieving Diversity on the Jury*, *supra*, at 449, it increases "the opportunity for meaningful and appropriate

representation" and helps ensure that juries "represent adequately a cross-section of the community." *Ballew*, 435 U.S. at 237.

Other important considerations also weigh in favor of the twelve-member jury. For instance, studies indicate that twelve-member juries deliberate longer, recall evidence better, and rely less on irrelevant factors during deliberation. *See* Smith & Saks, *The Case for Overturning Williams v. Florida and the Six-Person Jury*, 60 Fla. L. Rev. 441, 465 (2008). Minority views are also more likely to be thoroughly expressed in a larger jury, as "having a large minority helps make the minority subgroup more influential," and, unsurprisingly, "the chance of minority members having allies is greater on a twelve-person jury." *Id.* at 466. Finally, larger juries deliver more predictable results. In the civil context, for example, "[s]ix-person juries are four times more likely to return extremely high or low damage awards compared to the average." Higginbotham et al., *Better by the Dozen*, *supra*, at 52.

Appellant recognizes that the state constitution provides:

> SECTION 22. Trial by jury.—The right of trial by jury shall be secure to all and remain inviolate. The qualifications and the number of jurors, not fewer than six, shall be fixed by law.

Art. I, § 22, Fla. Const. And he recognizes that section 913.10, Florida Statutes, provides for six jurors except in capital cases. *See also* Fla. R. Crim. P. 3.270.

But Florida's provision for a jury of six stems from the dawn of the Jim Crow era, one month after federal troops were withdrawn from the state. The historical background is as follows:

In 1875, the Jury Clause of the 1868 constitution was amended to provide that the number of jurors "for the trial of causes in any court may be fixed by law." *See Florida Fertilizer & Mfg. Co. v. Boswell*, 34 So. 241, 241 (Fla. 1903).

The common law rule of a jury of twelve was still kept in Florida while federal troops remained in the state. There was no provision for a jury of less than twelve until the Legislature enacted a provision specifying a jury of six in Chapter 3010, section 6. *See Gibson v. State*, 16 Fla. 291, 297–98 (1877) (quoting and discussing Chapter 3010, section 6, Laws of Florida (1877)); *Florida Fertilizer*, 34 So. 15 241 (noting that previously all juries had twelve members).

The Legislature enacted chapter 3010 with the jury-of-six provision on February 17, 1877. *Gibson*, 16 Fla. 294. This was less

than a month after the last federal troops were withdrawn from Florida in January 1877. *See* Jerrell H. Shofner, *Reconstruction and Renewal, 1865-1877*, in *The History of Florida* 273 (Michael Gannon, ed., first paperback edition 2018) ("there were [no federal troops" in Florida after 23 January 1877").

The jury-of-six thus first saw light at the birth of the Jim Crow era as former Confederates regained power in southern states and state prosecutors made a concerted effort to prevent blacks from serving on jurors.

On its face the 1868 constitution extended the franchise to black men. But the historical context shows that that it was part of the overall resistance to Reconstruction efforts to protect the rights of black citizens. The constitution was the product of a remarkable series of events including a coup in which leaders of the white southern (or native) faction took possession of the assembly hall in the middle of the night, excluding Radical Republican delegates from the proceedings. *See* Richard L. Hume, *Membership of the Florida Constitutional Convention of 1868: A Case Study of Republican Factionalism in the Reconstruction South*, 51 Fla. Hist. Q. 1, 5-6 (1972); Shofner at 266. A reconciliation was effected as the

"outside" whites "united with the majority of the body's native whites to frame a constitution designed to continue white dominance." Hume at 15.

The racist purpose of the resulting constitution was spelled out by Harrison Reed, a leader of the prevailing faction and the first governor elected under the 1868 constitution, who wrote to Senator Yulee that the new constitution was constructed to bar blacks from legislative office:

> Under our Constitution the Judiciary & State officers will be appointed & the apportionment will prevent a negro legislature.

Hume, 15-16. *See also* Shofner 266.

In *Ramos*, Justice Gorsuch noted that the Louisiana non-unanimity rule arose from Jim Crow era efforts to enforce white supremacy. *Id.* at 1394; *see also id.* at 1417 (Kavanaugh, J., concurring) (non-unanimity was enacted "as one pillar of a comprehensive and brutal program of racist Jim Crow measures against African-Americans, especially in voting and jury service."). The history of Florida's jury of six arises from the same historical context.

In view of the foregoing, a jury of six at a criminal trial for a crime punishable by up to life imprisonment is unconstitutional under the Sixth and Fourteenth Amendments of the United States Constitution.

Finally, appellant did not waive his Sixth Amendment right to a twelve-person jury. A defendant may waive his right to a constitutional jury, but the "express and intelligent consent of the defendant" is required. *Patton*, 281 U.S. at 312.

In *Johnson v. State*, 994 So. 2d 960 (Fla. 2008), for example, Johnson was charged with felony DUI, which is committing DUI with three prior DUI convictions. *Johnson*, 994 So. 2d at 962. After a jury found Johnson guilty of the base offense of DUI, the trial court, by stipulation, became the factfinder as to the prior DUI convictions. The trial court found that Johnson had the requisite prior convictions and adjudicated him guilty of felony DUI.

Johnson appealed, and this Court affirmed, holding that Johnson's counsel's stipulation that the trial court act as factfinder was a valid waiver of Johnson's Sixth Amendment right to have a jury decide the prior-convictions element. *Johnson v. State*, 944 So. 2d 474, 476-77 (Fla. 4th DCA 2006).

Johnson sought review in the Florida Supreme Court. The supreme court held that defense counsel's stipulation was insufficient, that Johnson's personal waiver of his jury-trial right was required. *Johnson*, 994 So. 2d at 963. "Further, a defendant's silence does not establish a valid waiver of the right to a jury trial." *Id*. Thus, Johnson could raise this issue for the first time on appeal: "[B]ecause a defendant's silence clearly does not constitute a valid waiver, it logically follows that defendants are not required to break their silence (through either a request for a jury trial or an objection to the bench trial) to preserve appellate review of this claim. Here, just as Johnson's silence was insufficient to waive his right to a jury trial, his silence was insufficient to waive appellate review of this claim." *Id*. at 964 (citation omitted).

As in *Johnson*, appellant's failure to raise this issue in the lower court "does not constitute a waiver of appellate review on this claim." *Id*.

The Third District's decision in *Jimenez v. State*, 167 So. 3d 497 (Fla. 3d DCA 2015), *rev. denied*, 192 So. 3d 38 (Fla. 2015), supports appellant's argument. Jimenez was tried by a jury of six people when he should have been tried by a jury of twelve people

(he was charged with first-degree murder, a capital offense). This violated section 913.10, Florida Statutes, and Florida Rule of Criminal Procedure 3.270. This was not fundamental error, the Third District said, because the "right to a jury of twelve persons is not of constitutional dimension. Rather, it is a right provided by state statute and in the corresponding Florida Rule of Criminal Procedure." *Jimenez*, 167 So. 3d at 499 (citations omitted). The court continued: "Jimenez was not denied his constitutional right to a trial by jury. Rather, he was provided with a trial by jury, but consisting of six rather than twelve persons. While this failed to comply with the statutory requirement, it was not fundamental error such that it could have been raised for the first time on appeal." *Id.* (citations omitted).

Jimenez was issued before *Ramos* effectively overruled *Williams*. Appellant's argument is that a jury of twelve persons is of "constitutional dimension." *Jimenez* implies that if it is an issue of "constitutional dimension," then it may be raised for the first time on appeal.

This Court should reverse the judgment and sentence and remand for a new trial with a twelve-person jury, as required by the

Sixth and Fourteenth Amendments to the United States Constitution.

BK: 3504 PG: 2031

☐ Probation Violator ☐ Modified
☐ Community Control Violator ☐ Amended
☐ Re-sentence ☐ Mitigated
☐ Sentence Absentia ☐ Corrected

In the Circuit Court,
Nineteenth Judicial Circuit
In and for Indian River County, Florida

Division: Felony

Case Number(s):
312020CF000783AXXXXX

State of Florida
VS.

SCOTTIE ANDREA JACKSON
Defendant.

FILED FOR RECORD
FELONY DIVISION
2022 JAN 12 PM 3:30
JEFFREY R. SMITH
CLERK OF CIRCUIT COURT
INDIAN RIVER COUNTY, FL
BY _____ D.C.

JUDGMENT

Defendant's Attorney HAROLD CHRISTOPHER WALSH
State's Attorney WILLIAM LONG ,

The above Defendant, being personally before this Court and having:

☒ been tried and found guilty by Jury/by Court of the following crime(s).
☐ entered a plea of guilty to the following crime(s)
☐ entered a plea of nolo contendere to the following crime(s)

Count	Crime	Offense Statute Number	Deg of Crime		OBTS #
1	RESISTING OFFICER WITH VIOLENCE	843.01(0)	F	T	3101132216
2	ROBBERY	812.13(1)	F	S	3101132216

☒ and no cause having been shown why the Defendant should not be adjudicated guilty, IT IS ORDERED THAT the Defendant is hereby ADJUDICATED GUILTY of the above crime(s).

☒ and being a qualified offender pursuant to s. 943.325, the Defendant shall be required to submit DNA samples as required by law.

☐ and good cause being shown; IT IS ORDERED THAT ADJUDICATION OF GUILT BE WITHHELD.

DONE AND ORDERED in open court on DECEMBER 9, 2021 in Indian River County, Florida.

NUNC PRO TUNC _____

CIRCUIT JUDGE DAN VAUGHN

BK: 3504 PG: 2032

STATE OF FLORIDA

Vs.

SCOTTIE ANDREA JACKSON Case: 312020CF000783AXXXXX

FINGERPRINTS OF DEFENDANT

R. Thumb	R. Index	R. Middle	R. Ring	R. Little
				
L. Thumb	**L. Index**	**L. Middle**	**L. Ring**	**L. Little**
				

Fingerprints taken by T LORENTZEN (Name) DEPUTY (Title)

Defendant: Donald Jeanne

DONE AND ORDERED in open court at Vero Beach, Indian River County, Florida, this 9 day of DECEMBER, 2021.

FILED FOR RECORD
FELONY DIVISION
2022 JAN 12 PM 3:31
JEFFREY R. SMITH
CLERK OF CIRCUIT COURT FL
INDIAN RIVER COUNTY
BY D.C.

I HEREBY CERTIFY that the above and foregoing fingerprints are the fingerprints of the Defendant, and that they were placed thereon by said Defendant in my presence in open court this date.

DAN VAUGHN
Judge

BK: 3504 PG: 2033

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICAL CIRCUIT
IN AND FOR INDIAN RIVER COUNTY, STATE OF FLORIDA

Defendant: SCOTTIE ANDREA JACKSON Case: 312020CF000783AXXXXX

SENTENCE

(As to Count 1)

The Defendant, being personally before this court, accompanied by the defendant's attorney of record, HAROLD CHRISTOPHER WALSH and having been adjudicated guilty herein, and the court having given 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 bring shown.

(check one if applicable)

☐ and the Court having on _____ deferred imposition of sentence until _____.

☐ and the Court having previously entered a judgment in this case on _____ now resentences the Defendant.

☐ and the Court having placed Defendant on ☐probation/☐community control and having subsequently revoked the Defendant's ☐probation/☐community control.

It Is the Sentence of the Court That:

☐ The Defendant pay a fine of $_____, pursuant to section 775.083, Florida Statutes, plus $_____ as the 5% surcharge required by section 960.25, Florida Statutes

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

☐ The Defendant is hereby committed to the custody of the Sheriff of Indian River County, Florida.

☐ The Defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

☐ The Defendant is hereby sentenced

☐ Probation
☐ Drug Offender Probation
☐ Community Control
☐ Sex Offender Probation

To Be Imprisoned (Check one, unmarked sections are inapplicable):

☐ For a term of natural life.

☒ For a term of 10 Year(s) _____ Month(s) _____ Day(s) as a condition of ☐ Probation ☐ Community Control

☐ Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

If "Split" sentence, complete the appropriate paragraph.

☐ Followed by a period of _____ Year(s) _____ Month(s) _____ Day(s) on ☐probation/☐community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order.

☐ However, after serving a period of _____ imprisonment in _____ the balance of the sentence shall be suspended and the Defendant shall be placed on ☐probation/☐community control for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order.

In the event the Defendant is ordered to serve additional split sentences, all incarceration portions shall be satisfied before the Defendant begins service of the supervision terms.

Defendant:
SCOTTIE ANDREA JACKSON

Case:
312020CF000783AXXXXX

SPECIAL PROVISIONS

(As to Count 1)

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

Minimum/Mandatory Provisions:

Firearm	☐	It is further ordered that the _____ year minimum imprisonment provisions of section 775.087(2), Florida Statutes, is hereby imposed for the sentence specified in this count.
Drug Trafficking	☐	It is further ordered that the _____ minimum mandatory imprisonment provisions of section 893.135(1), Florida Statutes, is hereby imposed for the sentence specified in this count.
Controlled Substance (within 1000 ft. of school)	☐	It is further ordered that the 3-year minimum imprisonment provision of section 893.13(1)(e)1, Florida Statutes, is hereby imposed for the sentence specified in this count.
Habitual Felony Offender	☒	The defendant is adjudicated a habitual felony offender and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(a), Florida Statutes. The requisite findings by the court are set forth in a separate order or stated on the record in open court.
Habitual Violent Felony Offender	☐	The defendant is adjudicated a habitual violent felony offender and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(b), Florida Statutes. A minimum term of _____ year(s) must be served prior to release. The requisite findings of the Court are set forth in a separate order or stated on the record in open court.
Law Enforcement Protection Act	☐	It is further ordered that the defendant shall serve a minimum of _____ years before release in accordance with section 775.0823, Florida Statutes.
Short-Barreled Rifle Shotgun, Machine Gun	☐	It is further ordered that the 5-year minimum provisions of section 790.221(2), Florida Statutes, are hereby imposed for the sentence specified in this count.
Prison Releasee Reoffender	☐	The defendant is adjudicated a prison releasee reoffender and has been sentenced to an extended term of _____ years as such in accordance with the provisions of section 775.082(9)(a), Florida Statutes. In accordance with section 775.082(b) the defendant must serve 100 percent of that portion of the total sentence.
Criminal use of Personal Identification Information	☐	It is further ordered that the 3 year mandatory minimum imprisonment provision of section 817.568(2)(b), Florida Statutes hereby imposed for the sentence specified in this court.

Other Provisions:

Continuing Criminal Enterprise	☐	It is further ordered that the 25-year minimum sentence provisions of section 893.20, Florida Statutes, are hereby imposed for the sentence specified in this count.
Taking a Law Enforcement Officer's Firearm	☐	It is further ordered that the 3-year mandatory minimum imprisonment provision of section 775.0875(1), Florida Statutes, is hereby imposed for the sentence specified in this court.
Retention of Judication	☐	The court retains jurisdiction over the defendant pursuant to section 947.16(3), Florida Statutes (1983)

Defendant:
SCOTTIE ANDREA JACKSON

Case:
312020CF000783AXXXXX

Jail Credit	☒	It is further ordered that the defendant shall be allowed a total of 538 days as credit for time incarcerated before imposition of this sentence ☐ All Cts. Or Ct._____
Credit for Time Served in Resentencing after Violation of Probation or Community Control	☐	It is further ordered that the defendant be allowed _____ days time served between the date of arrest as a violator following release from prison to the date of re-sentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served and unforfeited gain time previously awarded on case/count _____ (Offenses committed before October 1, 1989).
	☐	It is further ordered that the defendant be allowed _____ days time served between date of arrest as a violator following release from prison to the date of re-sentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served on case/count _____ (Offenses committed between October 1, 1989, and December 31, 1993).
	☐	The Court deems the unforfeited gain time previously awarded on the above case/count forfeited under section 948.06(6).
	☐	The Court allows unforfeited gain time previously awarded on the above case/count. (Gain time may be subject to forfeiture by the Department of Corrections under section 944.28(1)).
	☐	It is further ordered that the defendant be allowed _____ days time served between date of arrest as a violator following release from prison to the date of re-sentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served only pursuant to section 921.0017, Florida Statutes, on case/count _____ (Offenses committed on or after January 1, 1994)
Consecutive/Concurrent As To Other Counts	☒	It is further ordered that the sentence imposed for this count shall run (check one) ☐Consecutive to ☒ Concurrent with sentence set forth in count 002 of this case.
Consecutive/Concurrent As To Other Convictions	☐	It is further ordered that the composite term of all sentencing imposed for the counts specified in this order shall run (check one) ☐ consecutive to ☐ concurrent with the following: (check one)
	☐	Any active sentence being served.
	☐	Specific sentences: _____.

BK: 3504 PG: 2036

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICAL CIRCUIT
IN AND FOR INDIAN RIVER COUNTY, STATE OF FLORIDA

Defendant: SCOTTIE ANDREA JACKSON Case: 312020CF000783AXXXXX

SENTENCE

(As to Count 2)

The Defendant, being personally before this court, accompanied by the defendant's attorney of record, HAROLD CHRISTOPHER WALSH and having been adjudicated guilty herein, and the court having given 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 bring shown.

(check one if applicable)

☐ and the Court having on _____ deferred imposition of sentence until _____.

☐ and the Court having previously entered a judgment in this case on _____ now resentences the Defendant.

☐ and the Court having placed Defendant on ☐probation/☐community control and having subsequently revoked the Defendant's ☐probation/☐community control.

It Is the Sentence of the Court That:

☐ The Defendant pay a fine of $_____, pursuant to section 775.083, Florida Statutes, plus $_____ as the 5% surcharge required by section 960.25, Florida Statutes

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

☐ The Defendant is hereby committed to the custody of the Sheriff of Indian River County, Florida.

☐ The Defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

☐ The Defendant is hereby sentenced

☐ Probation
☐ Drug Offender Probation
☐ Community Control
☐ Sex Offender Probation

To Be Imprisoned (Check one, unmarked sections are inapplicable):

☐ For a term of natural life.

☒ For a term of 30 Years / 15 Year Minimum / Mandatory Year(s) _____ Month(s) _____ Day(s) as a condition of ☐ Probation ☐ Community Control

☐ Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

If "Split" sentence, complete the appropriate paragraph.

☐ Followed by a period of _____ Year(s) _____ Month(s) _____ Day(s) on ☐probation/☐community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order.

☐ However, after serving a period of _____ imprisonment in _____ the balance of the sentence shall be suspended and the Defendant shall be placed on ☐probation/☐community control for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order.

In the event the Defendant is ordered to serve additional split sentences, all incarceration portions shall be satisfied before the Defendant begins service of the supervision terms.

Defendant:
SCOTTIE ANDREA JACKSON

Case:
312020CF000783AXXXXX

SPECIAL PROVISIONS

(As to Count 2)

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

Minimum/Mandatory Provisions:

Firearm	☐	It is further ordered that the _____ year minimum imprisonment provisions of section 775.087(2), Florida Statutes, is hereby imposed for the sentence specified in this count.
Drug Trafficking	☐	It is further ordered that the _____ minimum mandatory imprisonment provisions of section 893.135(1), Florida Statutes, is hereby imposed for the sentence specified in this count.
Controlled Substance (within 1000 ft. of school)	☐	It is further ordered that the 3-year minimum imprisonment provision of section 893.13(1)(e)1, Florida Statutes, is hereby imposed for the sentence specified in this count.
Habitual Felony Offender	☒	The defendant is adjudicated a habitual felony offender and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(a), Florida Statutes. The requisite findings by the court are set forth in a separate order or stated on the record in open court.
Habitual Violent Felony Offender	☐	The defendant is adjudicated a habitual violent felony offender and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(b), Florida Statutes. A minimum term of _____ year(s) must be served prior to release. The requisite findings of the Court are set forth in a separate order or stated on the record in open court.
Law Enforcement Protection Act	☐	It is further ordered that the defendant shall serve a minimum of _____ years before release in accordance with section 775.0823, Florida Statutes.
Short-Barreled Rifle Shotgun, Machine Gun	☐	It is further ordered that the 5-year minimum provisions of section 790.221(2), Florida Statutes, are hereby imposed for the sentence specified in this count.
Prison Releasee Reoffender	☒	The defendant is adjudicated a prison releasee reoffender and has been sentenced to an extended term of 30 YEARS (15 YEAR MIN/MAN) years as such in accordance with the provisions of section 775.082(9)(a), Florida Statutes. In accordance with section 775.082(b) the defendant must serve 100 percent of that portion of the total sentence.
Criminal use of Personal Identification Information	☐	It is further ordered that the 3 year mandatory minimum imprisonment provision of section 817.568(2)(b), Florida Statutes hereby imposed for the sentence specified in this court.

Other Provisions:

Continuing Criminal Enterprise	☐	It is further ordered that the 25-year minimum sentence provisions of section 893.20, Florida Statutes, are hereby imposed for the sentence specified in this count.
Taking a Law Enforcement Officer's Firearm	☐	It is further ordered that the 3-year mandatory minimum imprisonment provision of section 775.0875(1), Florida Statutes, is hereby imposed for the sentence specified in this court.
Retention of Judication	☐	The court retains jurisdiction over the defendant pursuant to section 947.16(3), Florida Statutes (1983)

Defendant:
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Case:
312020CF000783AXXXXX

Jail Credit	☒	It is further ordered that the defendant shall be allowed a total of 538 days as credit for time incarcerated before imposition of this sentence ☐ All Cts. Or Ct._____
Credit for Time Served in Resentencing after Violation of Probation or Community Control	☐	It is further ordered that the defendant be allowed _____ days time served between the date of arrest as a violator following release from prison to the date of re-sentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served and unforfeited gain time previously awarded on case/count _____ (Offenses committed before October 1, 1989).
	☐	It is further ordered that the defendant be allowed _____ days time served between date of arrest as a violator following release from prison to the date of re-sentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served on case/count _____ (Offenses committed between October 1, 1989, and December 31, 1993).
	☐	The Court deems the unforfeited gain time previously awarded on the above case/count forfeited under section 948.06(6).
	☐	The Court allows unforfeited gain time previously awarded on the above case/count. (Gain time may be subject to forfeiture by the Department of Corrections under section 944.28(1)).
	☐	It is further ordered that the defendant be allowed _____ days time served between date of arrest as a violator following release from prison to the date of re-sentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served only pursuant to section 921.0017, Florida Statutes, on case/count _____ (Offenses committed on or after January 1, 1994)
Consecutive/Concurrent As To Other Counts	☐	It is further ordered that the sentence imposed for this count shall run (check one) ☐Consecutive to ☐ Concurrent with sentence set forth in count _____ of this case.
Consecutive/Concurrent As To Other Convictions	☐	It is further ordered that the composite term of all sentencing imposed for the counts specified in this order shall run (check one) ☐ consecutive to ☐ concurrent with the following: (check one)
	☐	Any active sentence being served.
	☐	Specific sentences: _____.

BK: 3504 PG: 2039

Defendant:
SCOTTIE ANDREA JACKSON

Case:
312020CF000783AXXXXX

Other Provisions:

In the event the above sentence is to the Department of Corrections, the Sheriff of Indian River 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 document 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 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 STATUTORY FEES/COSTS REDUCED TO A CIVIL LIEN, COURT RESERVES JURISDICTION ON ADDITIONAL COURT COSTS.

DONE AND ORDERED in open court on DECEMBER 9, 2021 at Indian River County, Florida.

NUNC PRO TUNC_____

_____
HONORABLE DAN VAUGHN

FILED FOR RECORD
FELONY DIVISION
2022 JAN 12 PM 3:31
JEFFREY R. SMITH
CLERK OF CIRCUIT COURT
INDIAN RIVER COUNTY, FL
BY_____ D.C.