

No.

IN THE SUPREME COURT OF THE UNITED STATES

FITZROY C. MORTON, 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

Benjamin Hunter Eisenberg

Assistant Public Defender

Counsel of Record

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Fifteenth Judicial Circuit of Florida

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DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

FITZROY C. MORTON,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D21-3271

[May 17, 2023]

Appeal from the Circuit Court for the Seventeenth Judicial Circuit,
Broward County; Bernard I. Bober, Judge; L.T. Case No.
062019CF009731A88810.

Carey Haughwout, Public Defender, and Benjamin Eisenberg, Assistant
Public Defender, West Palm Beach, for appellant.

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

PER CURIAM.

Affirmed. See Guzman v. State, 350 So. 3d 72 (Fla. 4th DCA 2022).

WARNER, DAMOORGIAN and CONNER, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.

Supreme Court of Florida

TUESDAY, JUNE 13, 2023

Fitzroy C. Morton,
Petitioner(s)

v.

State of Florida,
Respondent(s)

SC2023-0698

Lower Tribunal No(s).:

4D21-3271;

062019CF009731A88810

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.

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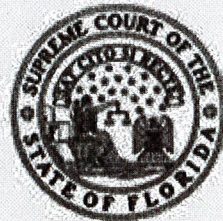
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John A. Tomasino

Clerk, Supreme Court

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CASE NO.: SC2023-0698

Page Two

KS

Served:

HEIDI BETTENDORF
HON. BERNARD ISAAC BOBER
BENJAMIN EISENBERG
HON. BRENDA D. FORMAN
HON. LONN WEISSBLUM

ISSUE III

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. In particular, the charges Appellant faced carried a maximum sentence of life imprisonment without parole. He argues that the Sixth and Fourteenth Amendments guarantee the right to a twelve-person jury when the defendant is charged with a felony.

Appellant notes that this Court recently decided *Guzman v. State*, 4D22-0148, 2022 WL 14688085 (Fla. 4th DCA Oct. 26, 2022), which rejected a defendant's argument "that his convictions by a six-person jury violated the Sixth and Fourteenth Amendments to the United States Constitution." *Id.* at *1. The majority opinion in *Guzman* found this Court was bound by the United States Supreme Court's holding in *Williams* that six-person juries are constitutionally permissible until the high court expressly revisited that holding. *Id.*

In a concurring opinion, Judge Gross "explain[ed] that [the defendant's] legal argument on jury composition present[ed] a classic example of how the law navigates the shifting sands of constitutional

analysis.” *Id.* at *2 (Gross, J., concurring). Although disagreeing with the defendant that *Ramos v. Louisiana*, 140 S. Ct. 1390 (2020), had overturned *Williams*, Judge Gross wrote that, “if applied to the issue of jury size, the originalist analysis in *Ramos* would undercut *Williams*’s functionalist underpinnings.” *Id.* at *5 (Gross, J., concurring). “At a minimum, *Ramos* . . . suggests that *Williams* was wrongly decided.” (Gross, J., concurring). Furthermore, the defendant “has a credible argument that the original public meaning of the Sixth Amendment right to a ‘trial by an impartial jury’ *included* the right to a 12-person jury. *Id.* (Gross, J., concurring).

Appellate attorneys have the obligation to “zealously assert[] the client’s position under the rules of the adversary system.” R. Regulating Fla. Bar prmb1. As part of this obligation, “[c]ounsel has the responsibility to make such [arguments] as may be necessary to keep the defendant’s case in an appellate ‘pipeline.’” *Sandoval v. State*, 884 So. 2d 214, 217 n. 1 (Fla. 2d DCA 2004). Therefore, although acknowledging this Court is bound by *Guzman*, Appellant seeks to preserve this argument for further review.

On the merits, although the United States 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.

After the Sixth Amendment was enacted, a bevy of state courts 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 United States 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). 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. *See, e.g., Maxwell v. Dow*, 176 U.S. 581, 586 (1900); *Patton v. United States*, 281 U.S. 276, 288 (1930); *Duncan v. Louisiana*, 391 U.S. 145, 151-152 (1968).

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 “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.

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. *See* 140 S. Ct. at 1395.

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. 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.

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). 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.

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. 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); *Florida Fertilizer*, 34 So. 15 241.

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). 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.

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 any felony offense, particularly a crime punishable by up to life imprisonment, is unconstitutional under the Sixth and Fourteenth Amendments of the United States Constitution.

CONCLUSION

Based on the foregoing arguments and authorities, this Court should reverse and remand for a new trial.

*** FILED: BROWARD COUNTY, FL Brenda D. Forman, CLERK 11/16/2021 11:24:52 AM.***

17th JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY

DIVISION:
CRIMINAL

DIVISION: FW

JUDGMENT

THE STATE OF FLORIDA VS.

CASE NUMBER

DEFENDANT Fitzroy Charles Morton 199731CF10A
Probation Violator

State Attorney ~~A. Scapp~~ J. C. Camillo

Court Reporter A. Campbell

The Defendant, Fitzroy Charles Morton being personally before this Court represented by
A. Scapp, his attorney of record, and having:

(Check applicable provision)

- Been tried and found guilty 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(S)	DEGREE OF CRIME	ADD'L MONIES IMPOSED
<u>1)</u>	<u>TRESPASS</u>	<u>810.08</u>	<u>2nd MM</u>	
<u>2)</u>	<u>False Imprisonment</u>	<u>787.02(1)</u> <u>(a)</u>	<u>3rd F</u>	

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).

The Defendant is hereby ordered to pay the sum of Fifty dollars (\$50.00) pursuant to F.S. 938.03 (Crimes Comp. Trust Fund). The Defendant is further ordered to pay the sum of Five Dollars (\$5.00) as court costs pursuant to F.S. 938.03(1) and 938.15 Fines imposed as part of a sentence pursuant to F.S. 777.083(1) are to be recorded on the Sentence page(s).


(Check if applicable)

- Stayed & Withheld Imposition of Sentence The court hereby stays and withholds the imposition of sentence as to count(s) _____ and places the Defendant on probation for a period of _____ under the supervision of the Department of Corrections (conditions of probation set forth in a separate order)
- Sentence Deferred Until Later Date The court hereby defers imposition of sentence until _____ (Date)
- Pay \$225.00 Trust Fund pursuant to F.S. 938.05(1)(a)


Count(s) 1 : 60 DAYS/MONTHS BROWARD COUNTY JAIL W/CREDIT 60 DAYS TIME SERVED.

The Defendant in open court was advised of his right to appeal from this Judgment by filing notice of appeal with the Clerk of Court within thirty days following the date sentence is imposed or probation is ordered pursuant to this adjudication. The Defendant was also advised of his right to the assistance of counsel in taking said appeal at the expense of the State upon showing indigence.

JUDGE



I hereby certify that a true and correct copy of the above and foregoing was served on the State Attorney by: hand delivery U.S. mail and to the Defense Attorney by: hand delivery U.S. mail this 16 day of Nov 2021.



Deputy Clerk
ICC 112-65 JUDGMENT

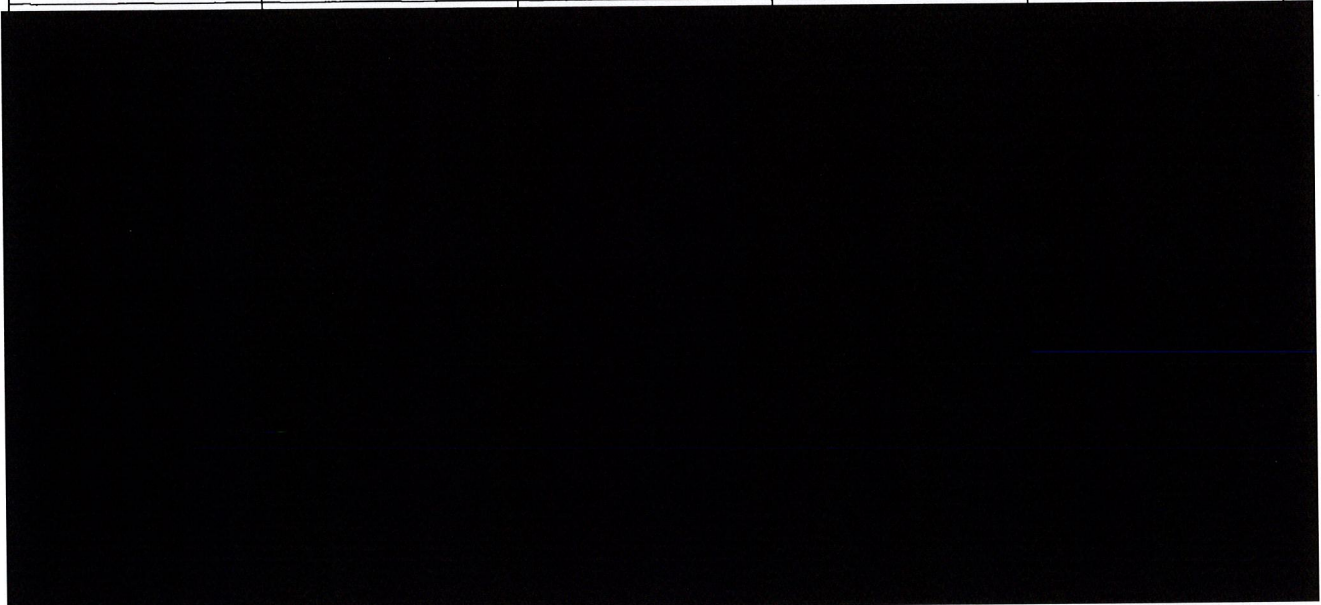
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MORTON, FITZROY

DIVISION: CRIMINAL	<input type="checkbox"/> ADJUDICATION WITHHELD <input checked="" type="checkbox"/> ADJUDICATED GUILTY	CASE NUMBER CF10 199731 CF10A
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FINGERPRINTS OF DEFENDANT

1. R. THUMB	2. R. INDEX	3. R. MIDDLE	4. R. RING	5. R. LITTLE
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Fingerprints taken by:

Dep. L. Wallace 13241 Court Deputy

Name & Title

DONE AND ORDERED in Open Court at Broward County, Florida this 16 day of Nov 2-21.
I HEREBY CERTIFY that the above and foregoing fingerprints are of the Defendant

Fitzroy
Morton, and that they were placed thereon by said defendant in my presence

in Open court this date.

JUDGE

UCN: 062019CF009731A8810 **CLOCK IN**

[] 17th Judicial Circuit in and for Broward County

DIVISION:
Criminal

SENTENCE

as to Count 2

THE STATE OF FLORIDA VS.

CASE NUMBER

DEFENDANT Fitzroy Charles
Morton

199731 CF 10A

The Defendant, being personally before this court, accompanied by his attorney, A. Sapp 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 he sentenced as provided by law, and cause shown,

- Check One and the Court having on 8/27/21 deferred imposition of sentence until this date.
- and the Court having previously entered a judgment in this case on the defendant now resentsences the defendant.
- and the Court having placed the 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 938.04, 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 Broward County, Florida.
- The Defendant is hereby sentenced as a youthful offender in accordance with F.S. 958.04.

TO BE IMPRISONED (check one: unmarked sections are inapplicable)

- For a term of Natural Life.
- For a term of 8 years FSP
- Said SENTENCE IS SUSPENDED for a period of _____ subject to conditions set forth in this Order.

If "split" sentence, complete either paragraph.

- Followed by a period of _____ on Probation/Community Control under the supervision of the Department of Correction according to the terms and conditions of supervision set forth in separate order entered herein.
- However, after serving a period of _____ imprisonment in _____ the balance of such 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 the Probation/ Community Control set forth in a separate order entered herein.

I HEREBY CERTIFY that a true and correct copy of the above and foregoing was served on the State Attorney by: Hand delivery [] U.S. Mail and to the Defense Attorney by: Hand delivery [] U.S. Mail this 16 day of NOV, 2021.

DIVISION: CRIMINAL	SENTENCE (AS TO COUNT <u>2</u>)	UCN: 062019CF0034883 CASE NUMBER <u>19 9731CF 10A</u>
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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 term.

SPECIAL PROVISIONS
(As to Count 2)

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

MANDATORY/MINIMUM PROVISIONS:

- | | | |
|------------------------|--------------------------|--|
| BATTERY ON THE ELDERLY | <input type="checkbox"/> | It is further ordered that the three (3) year mandatory minimum imprisonment provisions of F.S. 784.08(1) are hereby imposed for the sentence specified in this court. |
|------------------------|--------------------------|--|
- | | | |
|------------------|--------------------------|---|
| DRUG TRAFFICKING | <input type="checkbox"/> | It is further ordered that the _____ mandatory minimum imprisonment provisions of Florida Statute 893.135(1) are hereby imposed for the sentence specified in this court. |
|------------------|--------------------------|---|
- | | | |
|---|--------------------------|---|
| CONTROLLED SUBSTANCE WITHIN 1000 FEET OF SCHOOL | <input type="checkbox"/> | It is further ordered that the three (3) year minimum imprisonment provision of Florida Statute 893.13(1)(e)1, are hereby imposed for the sentence specified in this court. |
|---|--------------------------|---|
- | | | |
|--------------------------|-------------------------------------|---|
| HABITUAL FELONY OFFENDER | <input checked="" type="checkbox"/> | The defendant is adjudicated a habitual felony offender and has been sentenced to an extended term in this sentence in accordance to the provisions of Florida Statute 775.084(4). The requisite findings by the court are set forth in a separate order or stated on the record in open court. |
|--------------------------|-------------------------------------|---|
- | | | |
|---------------------------|--------------------------|---|
| HABITUAL VIOLENT OFFENDER | <input type="checkbox"/> | The defendant is adjudicated a habitual violent felony offender and has been sentenced to an extended term in this sentence in accordance to the provision of Florida Statute 775.084(4). A minimum term of _____ year(s) must be served prior to release. The requisite findings by the court are set forth in a separate order or stated on the record in open court. |
|---------------------------|--------------------------|---|
- | | | |
|--------------------------------|--------------------------|---|
| LAW ENFORCEMENT PROTECTION ACT | <input type="checkbox"/> | It is further ordered that the Defendant shall serve a minimum of _____ years before release in accordance with Florida Statute 775.0823. |
|--------------------------------|--------------------------|---|
- | | | |
|-----------------|--------------------------|---|
| CAPITAL OFFENSE | <input type="checkbox"/> | It is further ordered that the Defendant shall serve no less than 25 years in accordance with the provisions of Florida Statute 775.082(1). |
|-----------------|--------------------------|---|
- | | | |
|-------------------------|--------------------------|---|
| VIOLENT CAREER CRIMINAL | <input type="checkbox"/> | The defendant is adjudicated a violent career criminal offender and has been sentenced to a term in accordance with the provision of Florida Statute <u>775.084(4)(c)</u> . A minimum term of _____ year(s) must be served prior to release. The requisite findings by the court are set forth in a separate order or stated on the record in open court. |
|-------------------------|--------------------------|---|
- | | | |
|----------------------------|--------------------------|--|
| PRISON RELEASEE REOFFENDER | <input type="checkbox"/> | The defendant is sentenced as a prison releasee reoffender and must serve a term of imprisonment of _____ years in accordance with the provisions of Florida Statute 775.082(8)(a)2. |
|----------------------------|--------------------------|--|

I HEREBY CERTIFY that a true and correct copy of the above and foregoing was served on the State Attorney by: Hand delivery [] U.S. Mail and to the Defense Attorney by: Hand delivery [] U.S. Mail this 16 day of NOV, 2021.

UCN: 062019CF009731A88810

DIVISION: CRIMINAL	SENTENCE (AS TO COUNT <u>2</u>)	CASE NUMBER <u>19 9731CF 10A</u>
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OTHER PROVISIONS

- FIREARM/DESTRUCTIVE DEVICE [] It is further ordered that the _____ year mandatory minimum imprisonment provision of Florida Statute 775.087(2) and (3) is hereby imposed for the sentence specified in this count
- THREE-TIME VIOLENT FELONY OFFENDER [] The Defendant is adjudicated a three-time violent felony offender and has been sentenced to an extended term in accordance with the provisions of Florida Statute 775.084. The requisite findings by the court are set forth in a separate order or as stated on the record in open court.
- SHORT-BARRELED RIFLE, SHOTGUN, MACHINE GUN [] It is further ordered that the five-year minimum provisions of Florida Statute 790.22(2) are hereby imposed for the sentence specified in this count.
- CONTINUING CRIMINAL ENTERPRISE [] It is further ordered that the 25 year mandatory minimum sentence provisions of Florida Statute 893.20 are hereby imposed for the sentence specified in this count.
- RETENTION OF JURISDICTION [] The court retains jurisdiction over the defendant pursuant to Florida Statutes 947.16 (3).
- JAIL CREDIT [✓] It is further ordered that the defendant shall be allowed a total of 835 days as credit for time incarcerated prior to imposition of this sentence.
- PRISON CREDIT [] It is further ordered that the defendant be allowed credit for all time previously served on this count in the Department of Corrections prior to re-sentencing.
- CONSECUTIVE CONCURRENT AS TO OTHER COUNTS [] It is further ordered that the sentence imposed by this court shall run _____ consecutive to _____ concurrent with (check one) the sentence set forth in count _____ of this case.
- CONSECUTIVE CONCURRENT AS TO OTHER CONVICTIONS [] It is further ordered that the composite term of all sentences imposed for the courts specified in this order shall run _____ consecutive to _____ concurrent with (check one) the following:
 _____ Any active sentence being served.
 _____ Specific Sentences: _____

PSI ORDERED

YES [✓] NO []

In the event the above sentence is to the Department of Corrections, the Sheriff of Broward 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 Statutes.

The Defendant in Open Court was advised of his right to appeal from this Sentence by filing notice of appeal within thirty days from this date with the Clerk of this Court, and the Defendant's right to assistance of counsel in taking said appeal at the expense of the State upon showing of indigence.

In imposing the above sentence, the court further recommends _____

DONE AND ORDERED in Open Court at Broward County, Florida, this 16 day of NOVEMBER 20 21.

[Signature]
JUDGE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing was served on the State Attorney by: [✓] Hand Delivery [] U.S. Mail and to the Defense Attorney by: [✓] Hand Delivery [] U.S. Mail this 16 day of NOV, 20 21.

[Signature]