

No.

IN THE SUPREME COURT OF THE UNITED STATES

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ONTERRIOUS V. TILLMAN, PETITIONER

v.

STATE OF FLORIDA, RESPONDENT.

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

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**APPENDIX TO PETITION FOR A WRIT OF CERTIORARI**

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CAREY HAUGHWOUT

*Public Defender*

Paul Edward Petillo

*Assistant Public Defender*

*Counsel of Record*

Office of the Public Defender

Fifteenth Judicial Circuit of Florida

421 Third Street

West Palm Beach, Florida 33401

(561) 355-7600

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[appeals@pd15.org](http://appeals@pd15.org)

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT

**STATE OF FLORIDA,**  
Appellant,

v.

**ONTERRIOUS V. TILLMAN,**  
Appellee.

Nos. 4D22-1875 and 4D22-2300

[June 28, 2023]

Consolidated appeals from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Howard Coates, Judge; L.T. Case No. 502020CF006155A.

Ashley Moody, Attorney General, Tallahassee, and Sorraya M. Solages-Jones, Assistant Attorney General, West Palm Beach, for appellant.

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

PER CURIAM.

In case number 4D22-1875, we affirm without discussion the circuit court's order granting the defendant's post-verdict renewed motion for judgment of acquittal on the charge of neglect of a child causing great bodily harm while in possession of a firearm.

In case number 4D22-2300, we affirm the defendant's conviction on the charge of possession of a firearm or ammunition by a convicted felon. The defendant's first two arguments on appeal lack merit and require no further discussion. The defendant's third argument on appeal, that he was entitled to a twelve-person jury under the Sixth and Fourteenth Amendments to the United States Constitution, also lacks merit, for the reasons stated in *Guzman v. State*, 350 So. 3d 72, 73 (Fla. 4th DCA 2022), *rev. denied*, No. SC22-1597, 2023 WL 3830251 (Fla. June 6, 2023).

*Case no. 4D22-1875 affirmed; case no. 4D22-2300 affirmed.*

WARNER, MAY, and GERBER, JJ., concur.

\* \* \*

***Not final until disposition of timely filed motion for rehearing.***

# Supreme Court of Florida

THURSDAY, NOVEMBER 2, 2023

Onterrious V. Tillman,  
Petitioner(s)

v.

State of Florida,  
Respondent(s)

**SC2023-1074**

Lower Tribunal No(s).:  
4D22-1875; 4D22-2300;  
502020CF006155AXXXMB

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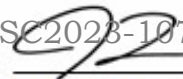
This cause having heretofore been submitted to the Court on jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Article V, Section 3(b), Florida Constitution, and the Court having determined that it should decline to accept jurisdiction, it is ordered that the petition for review is denied.

No motion for rehearing will be entertained by the Court. See Fla. R. App. P. 9.330(d)(2).

CANADY, LABARGA, COURIEL, GROSSHANS, and FRANCIS, JJ.,  
concur.

A True Copy  
Test:

SC2023-1074 11/2/2023

  
John A. Tomasino

Clerk, Supreme Court

SC2023-1074 11/2/2023



DL

**CASE NO.: SC2023-1074**

Page Two

Served:

4DCA CLERK

PALM BEACH CLERK

HON. HOWARD KELLY COATES, JR.

PAUL EDWARD PETILLO

SORRAYA M. SOLAGES-JONES

prejudice of the State parading Tillman's prior felony convictions before the jury. *See Brown v. State*, 719 So. 2d 882, 885 (Fla. 1998) (State required to accept such stipulation to avoid unfair prejudice). The State's use went beyond that stipulation. Second, the parties had already agreed on the jury instructions and they did not include the provision for weighing the credibility of a witness with a felony conviction. Thus, the jury was not given any guidance on how to consider such impeachment (had it even been proper to admit it). And defense counsel was not allowed to address it using that instruction.

This Court should order a new trial.

**POINT III. TILLMAN WAS ENTITLED TO A TWELVE-PERSON JURY UNDER THE SIXTH AND FOURTEENTH AMENDMENTS AND HE DID NOT WAIVE THAT RIGHT**

Tillman was convicted of felonies by a jury comprised of a mere six people. T 452. 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).<sup>3</sup>

The Supreme Court held in *Williams v. Florida*, 399 U.S. 78, 86 (1970), that juries as small as six were constitutionally permissible. But *Williams* is impossible to square with the 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. Tillman's conviction by a six-person jury violated the Sixth and Fourteenth Amendments to the United States Constitution.

Tillman acknowledges that this Court rejected this argument in *Guzman v. State*, 350 So. 3d 72 (Fla. 4th DCA 2022). *Guzman* has sought review in the Florida Supreme Court. *Guzman v. State*, No. SC22-1597. Therefore, if this Court affirms, Tillman requests

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<sup>3</sup> Tillman can raise this issue for the first time on appeal because the issue isn't whether he preserved this issue by objecting in the trial court; the issue is whether he personally waived his constitutional right to a twelve-person jury, and he did not. See *Johnson v. State*, 994 So. 2d 960, 963-64 (Fla. 2008) (holding that defendant must personally waive constitutional right to have jury decide prior-convictions element in felony DUI case; defense counsel's stipulation that trial court act as factfinder is insufficient).

that this Court cite *Guzman v. State*, 350 So. 3d 72 (Fla. 4th DCA 2022), *rev. pending*, No. SC22-1597. This will provide Tillman an avenue for supreme court review under *Jollie v. State*, 405 So. 2d 418 (Fla. 1981), and will avoid the randomness of the review process. *See id.* at 421 (recognizing that “no litigant can guide the district court’s selection of the lead case” and the citation PCA can avoid the randomness of the review process).

In rejecting Guzman’s argument, this Court cited *State v. Khorrami*, 1 CA-CR 20-0088, 2021 WL 3197499 (Ariz. Ct. App. July 29, 2021). *Guzman*, 350 So. 3d at 73. At the time of this Court’s decision, Khorrami’s petition for writ of certiorari in the United States Supreme Court was pending. The petition was subsequently denied, over dissents by Justices Kavanaugh and Gorsuch. *Khorrami v. Arizona*, 21-1553, 2022 WL 16726030 (U.S. Nov. 7, 2022).



Although there is no legal significance to the denial of a petition for writ of certiorari,<sup>4</sup> there are differences between Florida’s and Arizona’s systems that may account for the denial of the writ.

In Arizona, criminal defendants are guaranteed “a twelve-person jury in cases when the sentence authorized by law is death or imprisonment for thirty years or more.... Otherwise, a criminal defendant may be tried with an eight-person jury.” *State v. Khorrami*, 2021 WL 3197499, at \*8 (citations omitted). Florida juries are smaller (six versus eight), and those smaller juries are mandated in every case except capital cases.

And the origin of Florida’s rule is disturbing. In his dissent, Justice Gorsuch observed: “During the Jim Crow era, some States restricted the size of juries and abandoned the demand for a unanimous verdict as part of a deliberate and systematic effort to suppress minority voices in public affairs.” *Khorrami v. Arizona*,

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<sup>4</sup> See *Ramos v. Louisiana*, 140 S.Ct. 1390 (2020) at n.56 (“The significance of a denial of a petition for certiorari ought no longer require discussion. This Court has said again and again and again that such a denial has no legal significance whatever bearing on the merits of the claim.”) (cleaned up).

2022 WL 16726030, at \*5 (Gorsuch, J., dissenting) (citations omitted). He noted, however, that Arizona’s law was likely motivated by costs not race. *Id.* But Florida’s jury of six did arise in that Jim Crow era context of a “deliberate and systematic effort to suppress minority voices in public affairs.” *Id.* 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); *Florida Fertilizer*, 34 So. at 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) (“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 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.

Smaller juries and non-unanimous verdicts were part of a Jim Crow era effort “to suppress minority voices in public affairs.” *Khorrami v. Arizona*, 2022 WL 16726030, at \*5 (Gorsuch, J., dissenting); *see also Ramos*, 140 S. Ct. 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.

If this Court affirms, it should cite *Guzman*.

ANSWER TO STATE'S APPEAL

THE TRIAL COURT CORRECTLY GRANTED THE  
MOTION FOR JUDGMENT OF ACQUITTAL

The trial court's thoughtful, thirteen-page order (R 190-203) is correct, supported by competent substantial evidence, and should be affirmed.

Two preliminary matters. First, the State's brief is rife with citations to the probable cause affidavit,<sup>5</sup> which is not evidence, and may not be relied upon. (To its credit, the State does not rely on it in its argument.) The trial court correctly limited itself to the evidence presented at trial—evidence that was tested by cross-examination and confrontation—not the hearsay records in the court file. *See Burgess v. State*, 831 So. 2d 137, 141 (Fla. 2002) (trial court cannot rely on hearsay documentation in the trial court

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<sup>5</sup> Tillman presumes that the State is relying on the probable cause affidavit at R 56-57, but it cites in its brief R 61, which is some kind cross reference list. *See State's Initial Brief at 1-2.*

IN THE CIRCUIT COURT, FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO: 2020CF006155AMB

DIV: V

OBTS NUMBER:

STATE OF FLORIDA

v.

ONTERRIOUS TILLMAN,

B/M,

12/03/1992,

- PROBATION VIOLATOR
- COMMUNITY CONTROL VIOLATOR
- RETRIAL
- RESENTENCE

**JUDGMENT**

The above defendant, being personally before this Court represented by PUBLIC DEFENDER - DIVISION V  
(attorney)

<input checked="" type="checkbox"/> Having been tried and found guilty of the following crime(s):	<input type="checkbox"/> Having entered a plea of guilty to the following crime(s):	<input type="checkbox"/> Having entered a plea of nolo contendere to the following crime(s):
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COUNT	CRIME	OFFENSE STATUTE NUMBER(S)	DEGREE
2	Felon in Poss of Firearm (Actual)	775.087(2) + 790.23(1)(a)(c) (e) + (3)	2F

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.

SENTENCE

STAYED  The Court hereby stays and withholds imposition of sentence as to count(s) and places the Defendant on  probation and/or  Community Control under the supervision of the Dept. Of Corrections (conditions of probation set forth in separate order).

SENTENCE

DEFERRED  The Court hereby defers imposition of sentence until

The Defendant in Open Court was advised of his right to appeal from the 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 of indigence.

DONE AND ORDERED in Open Court at Palm Beach County, Florida, this 18 day of August, 2020: 2022

*[Signature]*  
CIRCUIT COURT JUDGE

**FILED**  
Circuit Criminal Department

AUG 18 2022

JOSEPH ABRUZZO  
Clerk of the Circuit Court & Comptroller  
Palm Beach County

09  
1/2  
000266

IN THE CRIMINAL DIVISION OF THE CIRCUIT/COUNTY COURT OF THE  
 FIFTEENTH JUDICIAL CIRCUIT OF FLORIDA,  
 IN AND FOR PALM BEACH COUNTY

CASE NO. 50-2020-CF-006155-AXXX-MB

DIV. V: Felony - V (Circuit)

OBTS NUMBER: 5003453950

STATE OF FLORIDA

COMMUNITY  
 CONTROL  
 VIOLATOR

V

ONTERRIOUS TILLMAN  
 DEFENDANT

PROBATION  
 VIOLATION

December 3, 1992

Black

Male

DATE OF BIRTH

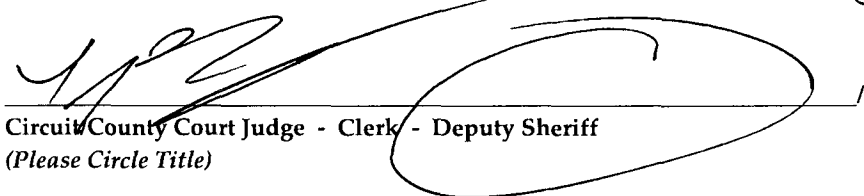
RACE

GENDER

The fingerprints below are those of said Defendant taken by Deputy Sheriff J. Beasley 28979

1. R. THUMB	2. R. INDEX	3. R. MIDDLE	4. R. RING	5. R. LITTLE
Right Hand				
6. L. THUMB	7. L. INDEX	8. L. MIDDLE	9. L. RING	10. L. LITTLE
In Sling				

I hereby certify that the above and foregoing fingerprints are the fingerprints of the defendant, ONTERRIOUS TILLMAN, and that they were placed thereon by said defendant in my presence this 18<sup>th</sup> day of August, 20 22

  
 Circuit/County Court Judge - Clerk - Deputy Sheriff  
 (Please Circle Title)

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

**SENTENCE**

(As to Count(s) 2)

Defendant: Onterrious Tillman

Case Number: 20CF0155AXX

OBTS Number: \_\_\_\_\_

The Defendant, being personally before this Court, accompanied by the defendant's attorney of record, \_\_\_\_\_, 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 Defendant should not be sentenced as provided by law, and no cause being shown,

IT IS THE SENTENCE OF THE COURT that:

The Defendant pay a fine of \$ \_\_\_\_\_ pursuant to § 755.083, 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  
 Sheriff of Palm Beach County, Florida

Department of Corrections as a youthful offender  
For a term of 4.5 yrs. It is further ordered that the Defendant shall be allowed a total of 58 days as credit for time incarcerated prior to imposition of this sentence. It is further ordered that the composite term of all sentences imposed for the counts specified in the order shall run

consecutive to  concurrent with (check one) the following:  
 Any active sentence being served.  
 Specific sentences: \_\_\_\_\_

The instant sentence is based upon the Court having previously placed the Defendant on probation and having subsequently revoked the Defendant's probation for violation(s) of condition(s) \_\_\_\_\_.

In the event the above sentence is to the Department of Corrections, the Sheriff of Palm Beach County, Florida is hereby ordered and directed to deliver the Defendant to the Department of Corrections together with a copy of the Judgment and Sentence, and any other documents specified by Florida Statute. Additionally, pursuant to §947.16(4), Florida Statutes, the Court retains jurisdiction over the Defendant.

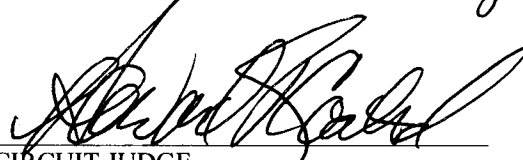
The Sentencing Court objects to the Defendant being placed into the Youthful Offender Basic Training Program pursuant to Florida Statute §958.045.

Pursuant to §322.055, 322.056, 322.26, 322.274, Florida Statutes, The Department of Highway Safety and Motor Vehicles is directed to revoke the Defendant's privilege to drive. The Clerk of the Court is Ordered to report the conviction and revocation to the Department of Highway Safety and Motor Vehicles.

DONE AND ORDERED in Open Court at West Palm Beach, Palm Beach County, Florida this 18 day of August, 2022.

**FILED**  
Circuit Criminal Department

**AUG 18 2022**

  
CIRCUIT JUDGE



**FILED**  
Circuit Criminal Department

**SENTENCE WITH  
SPECIAL PROVISIONS**

AUG 18 2022

JOSEPH ABRUZZO  
Clerk of the Circuit Court & Comptroller  
Palm Beach County

(As to Count(s) 2)

Defendant: Onterrious Tillman

Case Number: 20CF6155AXX

OBTS Number: \_\_\_\_\_

The Defendant, being personally before this Court, accompanied by the defendant's attorney of record, \_\_\_\_\_, 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 Defendant should not be sentenced as provided by law, and no cause being shown,

IT IS THE SENTENCE OF THE COURT that:

By reference to count, the following additional provisions apply to the sentence imposed:

Count  
Ct. 2

**FIREARM**

It is further ordered that the 3 ( ) year minimum imprisonment provision of section 775.087(2), Florida Statutes, is hereby imposed for the sentence specified in this count.

**PRISON RELEASEE RE-OFFENDER**

The Defendant is adjudicated a prison release re-offender and has been sentenced in accordance with the provisions of Florida Statute 775.082(9). The Defendant shall be released only by expiration of sentence and shall not be eligible for parole, control release, or any form of early release. Additionally, the Defendant must serve 100 percent of the statutory maximum. The requisite findings by the Court are set forth in a separate order or stated in the record in Open Court.

**DRUG TRAFFICKING**

It is further ordered that the \_\_\_\_\_ mandatory minimum imprisonment provision of section 893.135(1), Florida Statutes, is hereby imposed for the sentence specified in this count.

**CONTROLLED SUBSTANCE WITHIN 1,000 FEET OF SCHOOL**

It is further ordered that the 3-year minimum imprisonment provision of section 893.13(1)(c)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 by the Court are set forth in a separate order or stated on the record in Open Court.

THREE TIME VIOLENT FELONY OFFENDER

The Defendant is adjudicated a three-time violent felony offender and has been sentenced in accordance with the provisions of Florida Statute 775.084(4)(c). The requisite findings by the Court are set forth in a separate order or stated in the record in Open Court.

VIOLENT CAREER CRIMINAL

The Defendant is adjudicated a habitual violent offender and has been sentenced to an extended term in accordance with the provisions of Florida Statute 775.084(4)(d). A minimum term of \_\_\_\_\_ years must be served prior to release. The requisite findings by the Court are set forth in a separate order or stated in the record in Open Court.

DUI MANSLAUGHTER

It is further ordered that the Defendant shall serve a mandatory minimum of four (4) years before release in accordance with Florida Statute 316.193.

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. (Offenses committed before January 1, 1994)

CRIMES AGAINST LAW ENFORCEMENT OFFICERS (check one)

- The Defendant having been convicted of Aggravated Assault on a Law Enforcement Officer, it is further ordered that the Defendant shall serve a minimum of 3 years before release in accordance with Florida Statute 784.07(2)(c).
- The Defendant having been convicted of Aggravated Battery on a Law Enforcement Officer, it is further ordered that the Defendant shall serve a minimum of 5 years before release in accordance with Florida Statute 784.07(2)(d).
- The Defendant having been convicted of Battery on a Law Enforcement Officer and having possessed a firearm or destructive device during the commission of said offense, it is further ordered that the Defendant shall serve a minimum of 3 years before release in accordance with Florida Statute 784.07(3)(a).

CAPITAL OFFENSE

It is further ordered that the Defendant shall serve no less than 25 years in accordance with the provisions of section 775.082(1), Florida Statutes. (Offenses committed before October 1, 1995)

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. (Offenses committed before January 1, 1994)

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 count. (Offenses committed before January 1, 1994)

SEXUAL OFFENDER/SEXUAL PREDATOR DETERMINATIONS:

SEXUAL PREDATOR

The Defendant is adjudicated a sexual predator as set forth in section 775.21, Florida Statutes.

SEXUAL OFFENDER

The Defendant meets the criteria for a sexual offender as set forth in section 943.0435(1)(a)1a., b., c., or d.

AGE OF VICTIM

The victim was \_\_\_\_\_ years of age at the time of the offense.

AGE OF DEFENDANT

The Defendant was \_\_\_\_\_ years of age at the time of the offense.

RELATIONSHIP TO VICTIM

The Defendant is not the victim's parent or guardian.

SEXUAL ACTIVITY [F.S. 800.04(4)]

The offense \_\_\_\_\_ did \_\_\_\_\_ did not involve sexual activity.

USE OF FORCE OR COERCION [F.S. 800.04(4)]

The sexual activity described herein \_\_\_\_\_ did \_\_\_\_\_ did not involve the use of force or coercion.

USE OF FORCE OR COERCION/UNCLOTHED GENITALS [F.S. 800.04(5)]

The molestation \_\_\_\_\_ did \_\_\_\_\_ did not involve unclothed genitals or genital area.

The molestation \_\_\_\_\_ did \_\_\_\_\_ did not involve the use of force or coercion.

OTHER PROVISIONS:

CRIMINAL GANG ACTIVITY

The felony conviction is for an offense that was found, pursuant to section 874.04, Florida Statutes, to have been committed for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.

RETENTION OF JURISDICTION

The Court retains jurisdiction over the Defendant pursuant to section 947.16(4), Florida Statutes.

SUSPENDED AND/OR SPLIT SENTENCES:


Said SENTENCE SUSPENDED for a period of \_\_\_\_\_ subject to conditions set forth in a separate order entered herein.

However, after serving a period of \_\_\_\_\_ imprisonment the balance of such sentence shall be suspended and the Defendant shall be placed on probation for a period of \_\_\_\_\_ under supervision of the Department of Corrections, according to the terms and conditions of probation as set forth in a separate order entered herein.

Followed by a period of \_\_\_\_\_ on probation under the supervision of the Department of Corrections, according to the terms and conditions of probation as set forth in a separate order entered herein.

In the event the above sentence is to the Department of Corrections, the Sheriff of Palm Beach County, Florida is hereby ordered and directed to deliver the Defendant to the Department of Corrections together with a copy of the Judgment and Sentence, and any other documents specified by Florida Statute. Additionally, pursuant to §947.16(4), Florida Statutes, the Court retains jurisdiction over the Defendant.

20 22 **DONE AND ORDERED** in Open Court at Palm Beach County, Florida on this 18<sup>th</sup> day of August,

  
Circuit Judge

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

**FILED**  
Circuit Criminal Department

**SENTENCE WITH  
SPECIAL PROVISIONS**

AUG 18 2022

JOSEPH ABRUZZO  
Clerk of the Circuit Court & Comptroller  
Palm Beach County

(As to Count(s) 2)

Defendant: Onterrious Tillman

Case Number: 20CF 006155AXX

OBTS Number: \_\_\_\_\_

The Defendant, being personally before this Court, accompanied by the defendant's attorney of record, \_\_\_\_\_, 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 Defendant should not be sentenced as provided by law, and no cause being shown,

IT IS THE SENTENCE OF THE COURT that:

By reference to count, the following additional provisions apply to the sentence imposed:

**Count**

**FIREARM**

It is further ordered that the \_\_\_\_\_ ( ) year minimum imprisonment provision of section 775.087(2), Florida Statutes, is hereby imposed for the sentence specified in this count.

**PRISON RELEASEE RE-OFFENDER**

The Defendant is adjudicated a prison release re-offender and has been sentenced in accordance with the provisions of Florida Statute 775.082(9). The Defendant shall be released only by expiration of sentence and shall not be eligible for parole, control release, or any form of early release. Additionally, the Defendant must serve 100 percent of the statutory maximum. The requisite findings by the Court are set forth in a separate order or stated in the record in Open Court.

**DRUG TRAFFICKING**

It is further ordered that the \_\_\_\_\_ mandatory minimum imprisonment provision of section 893.135(1), Florida Statutes, is hereby imposed for the sentence specified in this count.

**CONTROLLED SUBSTANCE WITHIN 1,000 FEET OF SCHOOL**

It is further ordered that the 3-year minimum imprisonment provision of section 893.13(1)(c)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 by the Court are set forth in a separate order or stated on the record in Open Court.

**THREE TIME VIOLENT FELONY OFFENDER**

The Defendant is adjudicated a three-time violent felony offender and has been sentenced in accordance with the provisions of Florida Statute 775.084(4)(c). The requisite findings by the Court are set forth in a separate order or stated in the record in Open Court.

**VIOLENT CAREER CRIMINAL**

The Defendant is adjudicated a habitual violent offender and has been sentenced to an extended term in accordance with the provisions of Florida Statute 775.084(4)(d). A minimum term of \_\_\_\_\_ years must be served prior to release. The requisite findings by the Court are set forth in a separate order or stated in the record in Open Court.

**DUI MANSLAUGHTER**

It is further ordered that the Defendant shall serve a mandatory minimum of four (4) years before release in accordance with Florida Statute 316.193.

**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. (Offenses committed before January 1, 1994)

**CRIMES AGAINST LAW ENFORCEMENT OFFICERS (check one)**

- The Defendant having been convicted of Aggravated Assault on a Law Enforcement Officer, it is further ordered that the Defendant shall serve a minimum of 3 years before release in accordance with Florida Statute 784.07(2)(c).
- The Defendant having been convicted of Aggravated Battery on a Law Enforcement Officer, it is further ordered that the Defendant shall serve a minimum of 5 years before release in accordance with Florida Statute 784.07(2)(d).
- The Defendant having been convicted of Battery on a Law Enforcement Officer and having possessed a firearm or destructive device during the commission of said offense, it is further ordered that the Defendant shall serve a minimum of 3 years before release in accordance with Florida Statute 784.07(3)(a).

**CAPITAL OFFENSE**

It is further ordered that the Defendant shall serve no less than 25 years in accordance with the provisions of section 775.082(1), Florida Statutes. (Offenses committed before October 1, 1995)

**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. (Offenses committed before January 1, 1994)

**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 count. (Offenses committed before January 1, 1994)

SEXUAL OFFENDER/SEXUAL PREDATOR DETERMINATIONS:

**SEXUAL PREDATOR**

The Defendant is adjudicated a sexual predator as set forth in section 775.21, Florida Statutes.

**SEXUAL OFFENDER**

The Defendant meets the criteria for a sexual offender as set forth in section 943.0435(1)(a)1a., b., c., or d.

**AGE OF VICTIM**

The victim was \_\_\_\_\_ years of age at the time of the offense.

**AGE OF DEFENDANT**

The Defendant was \_\_\_\_\_ years of age at the time of the offense.

RELATIONSHIP TO VICTIM

The Defendant is not the victim's parent or guardian.

SEXUAL ACTIVITY [F.S. 800.04(4)]

The offense \_\_\_\_\_ did \_\_\_\_\_ did not involve sexual activity.

USE OF FORCE OR COERCION [F.S. 800.04(4)]

The sexual activity described herein \_\_\_\_\_ did \_\_\_\_\_ did not involve the use of force or coercion.

USE OF FORCE OR COERCION/UNCLOTHED GENITALS [F.S. 800.04(5)]

The molestation \_\_\_\_\_ did \_\_\_\_\_ did not involve unclothed genitals or genital area.

The molestation \_\_\_\_\_ did \_\_\_\_\_ did not involve the use of force or coercion.

OTHER PROVISIONS:

CRIMINAL GANG ACTIVITY

The felony conviction is for an offense that was found, pursuant to section 874.04, Florida Statutes, to have been committed for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.

RETENTION OF JURISDICTION

The Court retains jurisdiction over the Defendant pursuant to section 947.16(4), Florida Statutes.

SUSPENDED AND/OR SPLIT SENTENCES:


Said SENTENCE SUSPENDED for a period of \_\_\_\_\_ subject to conditions set forth in a separate order entered herein.

However, after serving a period of \_\_\_\_\_ imprisonment the balance of such sentence shall be suspended and the Defendant shall be placed on probation for a period of \_\_\_\_\_ under supervision of the Department of Corrections, according to the terms and conditions of probation as set forth in a separate order entered herein.

Followed by a period of 2.5 yrs. on probation under the supervision of the Department of Corrections, according to the terms and conditions of probation as set forth in a separate order entered herein.

In the event the above sentence is to the Department of Corrections, the Sheriff of Palm Beach County, Florida is hereby ordered and directed to deliver the Defendant to the Department of Corrections together with a copy of the Judgment and Sentence, and any other documents specified by Florida Statute. Additionally, pursuant to §947.16(4), Florida Statutes, the Court retains jurisdiction over the Defendant.

4.2  
DONE AND ORDERED in Open Court at Palm Beach County, Florida on this 18<sup>th</sup> day of August, 2022.

  
Circuit Judge