

No.

IN THE SUPREME COURT OF THE UNITED STATES

JERMAINE ANDERSON, JR., 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

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DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

JERMAINE ANDERSON, JR.,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D2023-0391

[October 25, 2023]

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Hon. Daliah H. Weiss, Judge; L.T. Case No. 50-2020-CF-008579-AXXX-MB.

Carey Haughwout, Public Defender, and Alan Terry Lipson, Assistant Public Defender, West Palm Beach, for appellant.

Ashley Moody, Attorney General, Tallahassee, and Luke Robert Napodano, Senior Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

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

GERBER, LEVINE and CONNER, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.

**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA,
FOURTH DISTRICT**

JERMAINE ANDERSON, JR.

CASE NO. 4D23-0391

Defendant-Appellant,

vs.

STATE OF FLORIDA,

Plaintiff-Appellee.

_____/

**MOTION FOR WRITTEN OPINION AND CERTIFICATION OF
QUESTION OF GREAT PUBLIC IMPORTANCE
ON UNADDRESSED POINT**

Pursuant to Fla. R. App. P. 9.330, Defendant-Appellant, JERMAINE ANDERSON, JR., by and through undersigned counsel, files this Motion for the Issuance of a Written Opinion and Certification of Great Public Importance On Unaddressed Point challenging a six-person jury for defendant charged with a felony, from the *per curiam* decision rendered on October 25, 2023.

1. Rehearing in the form of a written opinion is necessary in order to enable the Supreme Court of Florida to revisit the constitutional authority requiring a twelve-person juries for all felonies. The constitutional parameters of jury composition in criminal cases is a question of great public importance that is being considered by the Supreme Court of the United States in two

pending cases.

2. Whether the Sixth and Fourteenth Amendments of the United States Constitution guarantee the right to a trial by a twelve person jury when charged with a felony is a fundamental question that is ripe for review by the Supreme Court of Florida. The precedent supporting a reduced sized jury of six in Williams v. Florida, 399 U.S. 78 (1970), has been effectively invalidated by Ramos v. Louisiana, 140 S.Ct. 1390 (2020), recognizing that the Sixth Amendment’s “trial by an impartial jury” requirement encompasses what the term “meant at the Sixth Amendment’s adoption.” Ramos, Id. at 1395. What the term meant then, as now, is a twelve-person jury. 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[.]” Id. [quoting 4 W. Blackstone, Commentaries on the laws of England 343 (1769)]. **“A verdict, taken from eleven, was no verdict at all.”** Id. [Internal citation and quotations removed.]

THIS COURT SHOULD ISSUE A WRITTEN OPINION ON THE TWELVE PERSON JURY

3. A written opinion will provide a legitimate basis for the Supreme Court of Florida to review an express construction of a United States Constitution provision as authorized by Fla. R. App. P. 9.030(a)(2)(A)(ii). As argued in appellate briefs, Florida precedent allowing a six-person jury in non-murder capital cases, State v. Hogan, 451 So. 2d 844, 845 (Fla. 1984), is incompatible with the prevailing Supreme Court of the United States precedent and is inconsistent with the purpose and meaning of the Sixth and Fourteenth Amendments to the United States Constitution, thus providing timely and justified opportunity for Supreme Court of Florida review. See, Guzman v. State, 350 So. 3d 72 (Fla. 4th DCA 2022) (Gross, J. Concurring), rev. denied, 2923 WL 3830251 (Fla. 2023); Hall v. State, 853 So. 2d 546, 547 (Fla. 1st DCA 2023) (appellate court certified whether defendant entitled to twelve-person jury as a question of great public importance), rev. denied, 865 So. 2d 480 (Fla. 2003).

4. The Supreme Court of the United States is currently considering whether to grant certiorari on this very question in seven petitions originating

from Florida courts.¹ The certiorari petitions ask the same question that is at issue in this case: Whether the Sixth and Fourteenth Amendments guarantee the right to a trial by a twelve-person jury when defendant is charged with a felony.

5. The United States Supreme Court directed the State of Florida to respond to all of these petitions, a signal that the Court considers the question to be significant. The State of Florida has responded to two of those petitions and has argued that the Court lacks jurisdiction because Petitioners did not move to certify a question and thereby seek review in the Supreme Court of Florida.

6. A written opinion on this important question allows the Supreme Court of Florida to evaluate precedent and practical issues arising from a six-person jury system. The time to grapple with the Williams legacy is now.

¹. See, Guzman v. Florida, 23-5173; Cunningham v. Florida, 23-5171; Arellano-Ramirez v. Florida, 23-5567; Sposato v. Florida, 23-5575; Morton v. Florida, 23-5579; Jackson v. Florida, 23-5570; Crane v. Florida, 23-5455.

**IN THE ALTERNATIVE THIS HONORABLE COURT SHOULD CERTIFY
TO THE SUPREME COURT OF FLORIDA A QUESTION OF GREAT
PUBLIC IMPORTANCE**

7. The following question of great public importance should be certified to the Supreme Court of Florida:

Do the Sixth and Fourteenth Amendments guarantee the right to a trial by a twelve-person jury when defendant is charged with a felony?

8. This appeal involves an issue of great public importance to the fundamental principles of constitutional construction and definition of what is meant by a trial by jury. The Supreme Court of Florida should be given the opportunity to revisit Williams in light of the recognition by the Supreme Court of the United States that the Williams Court relied upon misinformation and a strained analysis when approving six-person juries in felony cases.

WHEREFORE, Defendant-Appellant, JERMAINE ANDERSON, JR., respectfully requests that this Honorable Court either issue a written opinion in this cause or certify a question of great public importance.

Respectfully submitted,

CAREY HAUGHWOUT

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/s/ Alan T. Lipson _____
ALAN T. LIPSON
Assistant Public Defender
Florida Bar No. 0151810

Attorney for Jermaine Anderson, Jr.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Written Opinion and Certification of Question of Great Public Importance on Unaddressed Point has been furnished by E-mail to Assistant Attorney General, Luke R. Napodano [CrimAppWPB@myfloridalegal.com] and E-filed with this Honorable Court, this 2nd day of November, 2023.

/s/ Alan T. Lipson _____
ALAN T. LIPSON

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 110 SOUTH TAMARIND AVENUE, WEST PALM BEACH, FL 33401

December 5, 2023

JERMAINE ANDERSON, JR.,
Appellant(s)

v.

STATE OF FLORIDA,
Appellee(s).

CASE NO. - 4D2023-0391
L.T. No. - 502020CF008579A

BY ORDER OF THE COURT:

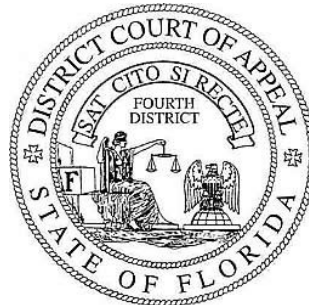
ORDERED that Appellant's November 02, 2023 motion for written opinion and certification is denied.

Served:
Attorney General-W.P.B.
Alan Terry Lipson
Luke Robert Napodano
Palm Beach Public Defender

KR

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


LONN WEISSBLUM, Clerk
Fourth District Court of Appeal
4D2023-0391 December 5, 2023



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

STATE OF FLORIDA,

CASE NO. 20CF008579AMB

vs.

Jermaine Jr. Anderson,
Defendant.

_____ /

DEFENDANT’S OBJECTION TO A SIX-PERSON JURY
AND MOTION FOR A TWELVE-PERSON JURY

The defendant, through counsel, objects to a six-person jury, and he moves for a twelve-person jury. 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 defendant recognizes that the state constitution provides that the “qualifications and the number of jurors, not fewer than six, shall be fixed by law,” *see* art. I, § 22, Fla. Const.; that section 913.10, Florida Statutes, provides for six jurors except in capital cases (see also Fla. R. Crim. P. 3.270); and that the Supreme Court held in *Williams v. Florida*, 399 U.S. 78, 86 (1970), that juries as small as six were constitutionally permissible. However, as explained below, *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. And a party that seeks reversal of current precedent must preserve that issue like any other. *See Espinosa v. State*, 626 So. 2d 165, 167 (Fla. 1993) (holding that issue was waived notwithstanding there was adverse authority that foreclosed it); *Beltran-Lopez v. State*, 626 So. 2d 163, 164 (Fla. 1993) (same); *see, e.g., Hollingsworth v. State*, 293 So. 3d 1049, 1051 (Fla. 4th

DCA 2020), *rev. denied*, 2020 WL 5902598 (Fla. Oct. 5, 2020). Therefore, the defendant objects to a six-person jury and moves for a twelve-person jury on the following grounds.

Prior to 1970, subjecting a defendant charged with a felony to a trial with only six jurors would indisputably violate his or her Sixth Amendment rights. As the *Ramos* Court observed, 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, 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 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, 151-52 (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, 122-23 (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; *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 1401-02.

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, disproportionately 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.

The origins of Florida's six-person juries are disturbing and further support reversal of existing precedent. The 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 felony criminal trial is unconstitutional under the Sixth and Fourteenth Amendments of the United States Constitution.

Respectfully submitted,

CAREY HAUGHWOUT
Public Defender, 15th Judicial Circuit
421 3rd Street
West Palm Beach, FL 33401
Telephone: (561) 355-7500



Joseph Walsh
Assistant Public Defender
Fla. Bar No. 506354

Certificate of Service

I HEREBY CERTIFY that a true and correct copy hereof has been served to Corey R Oneal, Assistant State Attorney, Division "S" OR the Assistant State Attorney currently assigned in STAC at the time of filing, via the STAC case management exchange on this 11th day of August, 2022.



Joseph Walsh
Assistant Public Defender

1 MS. HOWE: State accepts.

2 MR. WALSH: We would accept.

3 THE COURT: Excellent. Okay, do both
4 sides accept this jury?

5 MS. HOWE: Yes, Judge.

6 MR. WALSH: Judge, he needs to use
7 the restroom but the only thing I will
8 state is we, having made all our
9 peremptories, we had a pretrial motion --

10 THE COURT: Right.

11 MR. WALSH: -- to have a 12-person
12 jury. So within the sense of our motion to
13 do that, we would not accept the jury.
14 Just basically put that on the record.

15 THE COURT: So that ore tense
16 motion -- was it written? It was written
17 and I think I denied it.

18 MR. WALSH: You did.

19 THE COURT: Okay. Other than that,
20 any other objections to the jury?

21 MR. WALSH: No other objections.

22 THE COURT: All right, then you guys
23 did a great job with this. I would like to
24 bring, is he okay to bring in the jury and
25 swear them? Actually --

SUMMARY OF ARGUMENT

Point I

The US Supreme Court held in Ramos v. Louisiana, 140 S.Ct. 1390 (2020) that the 6th Amendment requires a trial by an impartial jury consisting of 12 persons. Defendant's convictions by a six person jury violated the 6th and 14th Amendments to the US Constitution.

ARGUMENT

POINT I

DEFENDANT WAS ENTITLED TO A TWELVE PERSON JURY UNDER THE SIXTH AND FOURTEENTH AMENDMENT.

Standard of Review

The standard of review of constitutional claims is de novo. See, A.B. v. Florida Dep. of Childen & Family Services, 901 So. 2d 324, 326 (Fla. 3rd DCA 2005).

Argument

Pretrial defendant moved for a twelve person jury. (ER 138-146) The motion was denied. (T 225) He was convicted of a 1st degree felony punishable by life and two second degree felonies. He argues that the Sixth and Fourteenth Amendments guarantee the right to a twelve peson jury when defendant is charged with a felony.

The U.S. 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. "Defendant enjoys a constitutional right

to demand that his liberty should not be taken from him except by the joint action of the court and ***the unanimous verdict of a jury of twelve persons.***” Id. at 1396-99. Defendant’s conviction by a six person jury violated the Sixth and Fourteenth Amendments to the U.S. Constitution.

Defendant acknowledges that this Honorable Court rejected this argument in Guzman v. State, 350 So. 3d 72 (Fla. 4th DCA 2022). In rejecting Guzman’s argument, this Honorable 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 Honorable 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, there are significant differences between Florida’s and Arizona’s justice systems that may account for the denial of the writ.

In Arizona, criminal defendants are guaranteed a “twelve person jury” in cases where 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, 202 WL 3197499, at *8 (citations omitted). In contrast, in Florida the juries are smaller, six persons versus the eight persons in Arizona. Moreover, the six person juries are mandated in every case except capital cases.

Further, the origin of Florida’s mandated six person jury is very disturbing. As 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, 2022 WL 16726030, at *5 (Gorsuch, J., dissenting) (citations omitted). However, he did note that Arizona’s law was ***likely motivated by costs, not race***. Id.

In contrast, Florida’s six person jury did arise in that Jim Crow era context of a “deliberate and systematic effort to suppress minority voices in public affairs,” as reflected by its historical background. In 1875, the Jury Clause of the 1868 Florida 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 (Fla. 1903). The common law rule of a jury of twelve persons 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 persons in Chapter 3010, Section 6. See, Gibson v. State, 16 Fla. 291, 297-98 (1877); Florida Fertilizer, supra, at 241.

The legislature enacted Chapter 3010 with the six persons jury on February 17, 1877. Gibson, supra, at 294. This enactment 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 six person jury 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 juries. On it's face the 1868 Constitution extended the franchise to black men. Nevertheless, the historical context shows 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 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. He wrote to Senator Yulee that the new constitution was constructed to bar blacks from legislative office: “Under our constitution the Judiciary and State offices 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, supra, 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 the six person jury arises from the same historical context.

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

CASE NO: 2020CF008579AMB

DIV: S

OBTS NUMBER:

STATE OF FLORIDA

v.

JERMAINE JR ANDERSON,

B/M,

07/21/2000, [REDACTED]

- ☐ PROBATION VIOLATOR
☐ COMMUNITY CONTROL VIOLATOR
☐ RETRIAL
☐ RESENTENCE

JUDGMENT

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

<input checked="" type="checkbox"/> Having been tried and found guilty of the following crime(s):	<input checked="" 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):
---	--	--

COUNT	CRIME	OFFENSE STATUTE NUMBER(S)	DEGREE
1	Robbery firearm	775.087(2)(a)1, 775.087(2)(a)2, 812.13(1)&(2)(a)	1° PBL
2	Fel. in poss FA	775.087(2) and 790.23(1)(a), (1)(c), (3)2F	
3	Shooting into vehicle	790.19	2F

- ☐ and the Court having made a factual finding, the above crime(s) qualify as a crime of domestic violence pursuant to s. 741.28.
- ☒ 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 indigency.

DONE AND ORDERED in Open Court at Palm Beach County, Florida, this 14 day of September, 2020

[Signature]
CIRCUIT COURT JUDGE

FILED
Circuit Criminal Department

SEP 14 2022

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

000193

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-008579-AXXX-MB

DIV. S: Felony - S (Circuit)

OBTs NUMBER: 5003456689

STATE OF FLORIDA

V

☐ COMMUNITY
CONTROL
VIOLATOR

JERMAINE JR ANDERSON
DEFENDANT

☐ PROBATION
VIOLATION

July 21, 2000

Black

Male











DATE OF BIRTH

RACE

GENDER

The fingerprints below are those of said Defendant taken by Deputy Sheriff

M. J. C. C. E. A.

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

I hereby certify that the above and foregoing fingerprints are the fingerprints of the defendant, JERMAINE JR ANDERSON, and that they were placed thereon by said defendant in my presence this 14 day of SEPT, 2022

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

C. M.
Deputy Sheriff

2062

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

SENTENCE

(As to Count(s) 1)

Defendant: Jermaine Anderson Jr.

Case Number: 2020CF008579AXXMB

OBTS Number: _____

The Defendant, being personally before this Court, accompanied by the defendant's attorney of record, APD, 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 27 years. It is further ordered that the Defendant shall be allowed a total of 813 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: CHS-1, 2, 3, 2021CF005430A-XXMB,
2022CF004731A-XXMB, & 2022CF009685A-XXMB

☐ 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 17 day of Jan., 2023.

FILED
Circuit Criminal Department

JAN 17 2023

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


CIRCUIT JUDGE

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

SENTENCE

(As to Count(s) 2,3)

Defendant: Jermaine Anderson Jr.

Case Number: 2020CF008579AxxMB

OBTS Number: _____

The Defendant, being personally before this Court, accompanied by the defendant's attorney of record, APD, 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 15 years. It is further ordered that the Defendant shall be allowed a total of 813 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: CS-1, 2, 3, 2021CF005430AxxMB,
2022CF004731AxxMB, + 2022CF009085AxxMB

☐ 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 17 day of Jan, 20 23.

FILED
Circuit Criminal Department

JAN 17 2023

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


CIRCUIT JUDGE

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

**SENTENCE WITH
SPECIAL PROVISIONS**

(As to Count(s) 1)

FILED
Circuit Criminal Department

JAN 17 2023

JOSEPH ABRUZZO

Clerk of the Circuit Court in and for Palm Beach County
The Defendant, Jermaine Anderson Jr., is before this Court, accompanied by the defendant's attorney of record, APD, 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,

Defendant: Jermaine Anderson Jr.

Case Number: 2020CF008579HXMB

OBTS Number: _____

IT IS THE SENTENCE OF THE COURT that:

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

Count

Ct. 1

FIREARM

It is further ordered that the twenty (20) 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.

DONE AND ORDERED in Open Court at Palm Beach County, Florida on this 17 day of Jan, 2023.



Circuit Judge

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

**SENTENCE WITH
SPECIAL PROVISIONS**

(As to Count(s) 2)

FILED

Circuit Criminal Department

JAN 17 2023

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

Defendant: Jermaine Anderson Jr.

Case Number: 2020CF008579AXXMB

OBTS Number: _____

The Defendant, being personally before this Court, accompanied by the defendant's attorney of record, APD, 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 three (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.

1
1
RELATIONSHIP TO VICTIM

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

1
1
SEXUAL ACTIVITY [F.S. 800.04(4)]

The offense _____ did _____ did not involve sexual activity.

1
1
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.

1
1
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.

1
1
OTHER PROVISIONS:

1
1
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.

1
1
RETENTION OF JURISDICTION

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

1
1
SUSPENDED AND/OR SPLIT SENTENCES:

1
1
Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in a separate order entered herein.

1
1
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.

1
1
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 23 **DONE AND ORDERED** in Open Court at Palm Beach County, Florida on this 17 day of Jan,
20 23.


Circuit Judge