

DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

JOSHUA ISAAC MARTINEZ,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

No. 2D23-824

January 31, 2024

Appeal from the Circuit Court for DeSoto County; Guy A. Flowers, Judge.

Howard L. Dimmig, II, Public Defender, and Kevin Briggs, Assistant Public Defender, Bartow, for Appellant.

Joshua Isaac Martinez, pro se.

Ashley Moody, Attorney General, Tallahassee, for Appellee.

PER CURIAM.

Affirmed.

SILBERMAN, BLACK, and SMITH, JJ., Concur.

Opinion subject to revision prior to official publication.

Appendix A

STATE OF FLORIDA
UNIFORM COMMITMENT TO CUSTODY
OF DEPARTMENT OF CORRECTIONS

The Circuit Court of the Twelfth Judicial Circuit in the DESOTO
County Florida Term Spring, 2023, in the case of

State of Florida

vs

JOSHUA ISAAC MARTINEZ
Defendant

Case No. 2022CF000367AXMA

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA, TO THE
SHERIFF OF THE ABOVE REFERENCED COUNTY AND THE DEPARTMENT OF
CORRECTIONS, GREETINGS:

The above named defendant has been duly charged, convicted, adjudicated guilty, and sentenced for the offense(s) set forth in the attached certified copies of Indictment(s)/Information(s), Original Judgment(s) Adjudicating Guilt and Sentencing Orders(s). In addition to the Original Judgment, if judicial supervision has been revoked subsequent to the entry of the judgment adjudicating guilt, a certified copy of the order revoking supervision (rather than a duplicative judgment adjudicating guilt) is also attached in support of this commitment.

Now therefore, this is to command you, the Sheriff, to take and keep and, within a reasonable time after receiving this commitment, deliver the defendant into the custody of the Department of Corrections; and this is to command you, the Secretary of the Department of Corrections, to keep and imprison the defendant for the term of the sentence. Herein fail not.

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WITNESS the Clerk, and the Seal thereof,
this 17th of April, 2023.

Nadia K. Daughtrey
Clerk of Circuit Court

BY: Me
Deputy Clerk



DC6-306(Revised 5/3/11)

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Appendix B

STATE OF FLORIDA
IN THE CIRCUIT COURT OF THE TWELFTH
JUDICIAL CIRCUIT
IN AND FOR DESOTO COUNTY FLORIDA

STATE OF FLORIDA,
-vs-
JOSHUA ISAAC MARTINEZ
Defendant.

UCN: 142022CF000367CFAXMA
Case Number: 2022CF000367AXMA
OBTS#: 1401045665

Judgment

PROBATION VIOLATOR
 COMMUNITY CONTROL VIOLATOR

RESENTENCE
 RETRIAL

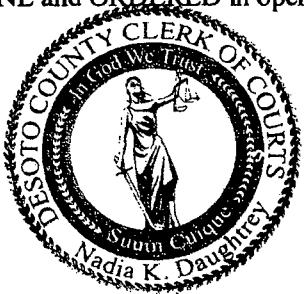
The defendant JOSHUA ISAAC MARTINEZ being personally before this court represented by ASSISTANT PUBLIC DEFENDER APD, the attorney of record and the state represented by ASSISTANT STATE ATTORNEY ASA and having been tried and found guilty by jury of the following crime(s)::

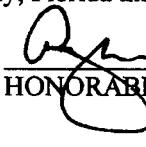
SEQ #	CNT #	CHARGE	LVL DGR
2	2	806.10.1 PREVENTING OR OBSTRUCTING EXTINGUISHMENT OF FIRE	Felony Third Degree
6	6	806.13.5 DAMAGE SEX VIOL PRED DETENTION/COMMITMENT FACILITY	Felony Third Degree

The PROBATION COMMUNITY CONTROL previously ordered in this case is revoked.
 The PRIOR ADJUDICATION OF GUILT IN THIS CASE IS CONFIRMED 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),.

DONE and ORDERED in open court in DESOTO County, Florida this 17th day of April, 2023.




HONORABLE GUY A FLOWERS, Judge

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STATE OF FLORIDA
IN THE CIRCUIT COURT OF THE TWELFTH
JUDICIAL CIRCUIT
IN AND FOR DESOTO COUNTY FLORIDA

STATE OF FLORIDA,
-vs-
JOSHUA ISAAC MARTINEZ
Defendant.

UCN: 142022CF000367CFAXMA
Case Number: 2022CF000367AXMA
OBTS#: 1401045665

Sentence

(As To Count 2 Statute 806.10.1)

The defendant, being personally before this court, accompanied by the defendant's attorney of record, ASSISTANT PUBLIC DEFENDER 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 the defendant should not be sentenced as provided by law, and no cause being shown,

(Check one if applicable)

- and the court having on 04/17/2023 deferred imposition of sentence until this date 04/17/2023
- and the court having previously entered a judgment in this case on _____ now resentence 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 is hereby committed to the custody of the Department of Corrections.

- The defendant pay a fine pursuant to section 775.083, Florida Statutes, plus a 5% surcharge required by section 938.04 Florida Statutes, as indicated on the Fine/Costs/Fee Page.
- The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To Be Imprisoned:

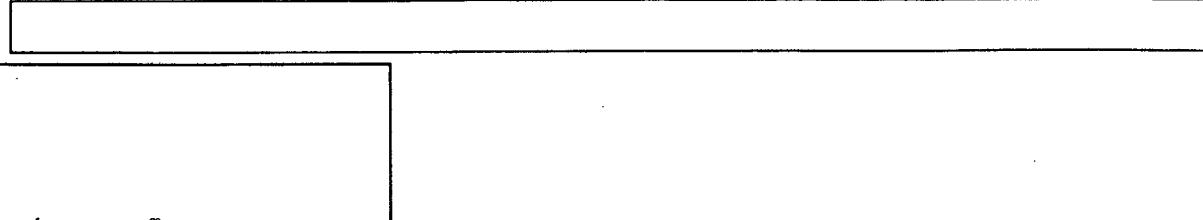
For a term of Minimum (none) Maximum 5.000 year(s)

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



STATE OF FLORIDA
IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR DESOTO COUNTY FLORIDA

STATE OF FLORIDA,

-vs-

JOSHUA ISAAC MARTINEZ
Defendant.

UCN: 142022CF000367CFAXMA
Case Number: 2022CF000367AXMA
OBTS#: 1401045665

Other Provisions

(As To Count 2, Statute PREVENTING OR OBSTRUCTING EXTINGUISHMENT OF FIRE)

It is further ordered that the defendant shall be allowed a total of 290.000 day(s) credit for such time incarcerated before imposition of this sentence.

CREDIT FOR TIME SERVED:

- The Department of Corrections shall apply the original jail time (To be used for Resentencing credit and to compute and apply credit for time served and the and after VOP and VOCC.) gain time awarded pursuant to section 944.275 Florida Statutes. (Pre October 1, 1989)
- The Department of Corrections shall apply the original jail time credit and to compute and apply credit for time served and unfortified gain time awarded during prior service of incarceration of the split sentence pursuant to section 948.06 (6) Florida Statutes. (Post October 1, 1989)
- It is further ordered that the defendant be allowed _____ days time served between date of arrest as a violator following release from prison to the date of resentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served only pursuant to section 921.0017, Florida Statutes, on case/count _____. (Offenses committed on or after January 1, 1994.)

DONE and ORDERED at DESOTO County, Florida this 17th day of April, 2023.




GUY A FLOWERS

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STATE OF FLORIDA
IN THE CIRCUIT COURT OF THE TWELFTH
JUDICIAL CIRCUIT
IN AND FOR DESOTO COUNTY FLORIDA

STATE OF FLORIDA,

-vs-

JOSHUA ISAAC MARTINEZ
Defendant.

UCN: 142022CF000367CFAXMA

Case Number: 2022CF000367AXMA
OBTS#: 1401045665

Sentence

(As To Count 6 Statute 806.13.5)

The defendant, being personally before this court, accompanied by the defendant's attorney of record, ASSISTANT PUBLIC DEFENDER 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 the defendant should not be sentenced as provided by law, and no cause being shown,

(Check one if applicable)

- and the court having on 04/17/2023 deferred imposition of sentence until this date 04/17/2023
- and the court having previously entered a judgment in this case on _____ 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 is hereby committed to the custody of the Department of Corrections.

- The defendant pay a fine pursuant to section 775.083, Florida Statutes, plus a 5% surcharge required by section 938.04 Florida Statutes, as indicated on the Fine/Costs/Fee Page.
- The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To Be Imprisoned:

For a term of Minimum (none) Maximum 3.000 year(s)

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

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STATE OF FLORIDA
IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR DESOTO COUNTY FLORIDA

STATE OF FLORIDA,
-vs-
JOSHUA ISAAC MARTINEZ
Defendant.

UCN: 142022CF000367CFAXMA
Case Number: 2022CF000367AXMA
OBTS#: 1401045665

Other Provisions

(As To Count 6, Statute DAMAGE SEX VIOL PRED DETENTION/COMMITMENT
FACILITY)

It is further ordered that the defendant shall be allowed a total of 290.000 day(s) credit for such time incarcerated before imposition of this sentence.

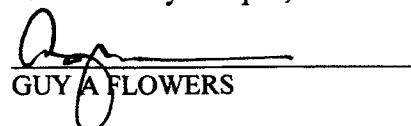
It is further ordered that the sentence imposed for the count specified in this order shall run **Consecutive with** any active sentence being served X specific sentences: **CT. 2**

CREDIT FOR TIME SERVED:

- The Department of Corrections shall apply the original jail time (To be used for Resentencing credit and to compute and apply credit for time served and the and after VOP and VOCC.) gain time awarded pursuant to section 944.275 Florida Statutes. (Pre October 1, 1989)
- The Department of Corrections shall apply the original jail time credit and to compute and apply credit for time served and unfortified gain time awarded during prior service of incarceration of the split sentence pursuant to section 948.06 (6) Florida Statutes. (Post October 1, 1989)
- It is further ordered that the defendant be allowed _____ days time served between date of arrest as a violator following release from prison to the date of resentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served only pursuant to section 921.0017, Florida Statutes, on case/count _____. (Offenses committed on or after January 1, 1994.)

DONE and ORDERED at DESOTO County, Florida this 17th day of April, 2023.




GUY A FLOWERS

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STATE OF FLORIDA
IN THE CIRCUIT COURT OF THE TWELFTH
JUDICIAL CIRCUIT
IN AND FOR DESOTO COUNTY FLORIDA

STATE OF FLORIDA,
-vs-
JOSHUA ISAAC MARTINEZ
Defendant.

UCN: 142022CF000367CFAXMA
Case Number: 2022CF000367AXMA

Signature Page

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

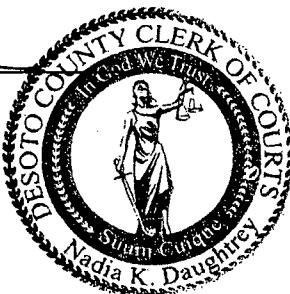
The defendant in open court was advised of the right to appeal from this sentence by filing notice of appeal within thirty days from this date with the clerk of this court and the defendant's right to the assistance of counsel in taking the appeal at the expense of the state on showing of indigence.

In imposing the above sentence, the court further recommends:

Ordered by HONORABLE GUY A FLOWERS

By: G
Judge

DATE: APRIL 17, 2023



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Appendix B

Supreme Court of Florida

FRIDAY, MARCH 8, 2024

Joshua I. Martinez,
Petitioner(s)
v.
State of Florida,
Respondent(s)

SC2024-0345
Lower Tribunal No(s).:
2D2023-0824;
142022CF000367CFAXMA

Petitioner's Notice to Invoke Discretionary Jurisdiction, seeking review of the order or opinion issued by the Second District Court of Appeal on January 31, 2024, is hereby dismissed. This Court lacks jurisdiction to review an unelaborated decision from a district court of appeal that is issued without opinion or explanation or that merely cites to an authority that is not a case pending review in, or reversed or quashed by, this Court. See *Wheeler v. State*, 296 So. 3d 895 (Fla. 2020); *Wells v. State*, 132 So. 3d 1110 (Fla. 2014); *Jackson v. State*, 926 So. 2d 1262 (Fla. 2006); *Gandy v. State*, 846 So. 2d 1141 (Fla. 2003); *Stallworth v. Moore*, 827 So. 2d 974 (Fla. 2002); *Harrison v. Hyster Co.*, 515 So. 2d 1279 (Fla. 1987); *Dodi Publ'g Co. v. Editorial Am. S.A.*, 385 So. 2d 1369 (Fla. 1980); *Jenkins v. State*, 385 So. 2d 1356 (Fla. 1980).

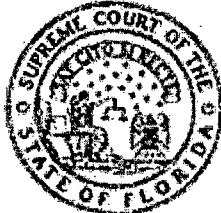
No motion for rehearing or reinstatement will be entertained by the Court.

A True Copy

Test:

SC2024-0345 3/8/2024

John A. Tomasino
Clerk, Supreme Court



IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SECOND DISTRICT
1700 N. TAMPA STREET, SUITE 300, TAMPA, FL 33602

February 27, 2024

CASE NO.: 2D23-0824
L.T. No.: 22-CF-367

JOSHUA ISAAC MARTINEZ

v. STATE OF FLORIDA

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

Because this case was briefed pursuant to *Anders v. California*, 386 U.S. 738 (1967), Appellant's pro se filings have been accepted and considered by the court. Appellant's pro se motion to relieve counsel is denied as moot.

Appellant's motion for certification is denied.

Appellant's motion for rehearing is denied.

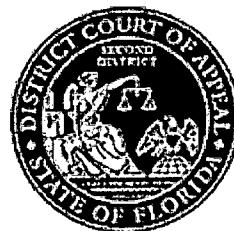
Appellant's "notice of stay and abeyance in the middle district court" is stricken as unauthorized.

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

mep

Mary Elizabeth Kuenzel

Mary Elizabeth Kuenzel
Clerk



Served:

ATTORNEY GENERAL, TAMPA
KEVIN BRIGGS, A.P.D.
DESOTO CLERK

HOWARD L. DIMMIG, I I, P. D.
JOSHUA ISAAC MARTINEZ

1 You'll hear what Mr. Harriss was doing when he was
2 doing -- they do their fresh-air breaks. They let them out,
3 where they get to go out and get fresh air and walk around,
4 and he does this every day at the same time. And as he's
5 walking up to give him the fresh-air break, that's when he
6 hears the noise, and the water coming out. And he'll testify
7 that nobody else came out that door, and how it's not
8 possible.

9 You'll also hear from Inspector Edwards, who is the
10 fire inspector out there at the Florida Civil Commitment
11 Center. He will explain to you how the system works. We have
12 some sprinklers, feel free to look at, and how hard it is to
13 actually make these things go off. And how in his 17 years
14 he's never had one malfunction accidentally.

15 And then the State will -- the Court will instruct
16 you on the law, we'll get a chance to do closing arguments
17 after that, I'll give you a verdict, I'll ask you to find the
18 defendant guilty, because he is. Thanks.

19 THE COURT: Thank you, Mr. Moran.

20 Mr. Martinez?

21 THE DEFENDANT: Yes, your Honor.

22 Hi. For what it's worth, I am not --

23 MR. MORAN: Objection, argument, your Honor.

24 THE COURT: Overruled.

25 THE DEFENDANT: I am not in agreement with what was

1 stated, so I'm going to state how -- whew -- I don't know if
2 this is permissible, but according to how I recall -- because
3 I remember that day July 2nd, it was not Custody Officer
4 Harriss but Custody Officer McKinney who was working in the
5 dorm. And I had just been taken out of the suicide homicidal
6 offender security cell 1084 in the Lakes Confinement Unit of
7 the Florida Civil Commitment Center, and I was placed in a
8 second-floor cell and given regular clothes.

9 MR. MORAN: Objection, your Honor, narrative.

10 THE COURT: I'll overrule it for the moment.

11 Mr. Martinez, you need to limit your opening as to
12 what you anticipate the evidence will present.

13 THE DEFENDANT: Okay, thank you for clarification,
14 your Honor.

15 All right. Every crime consists of two elements --
16 actus reus, which is the physical part, and mens rea, which
17 means evil mind, the mental element. You can't have one
18 without the other. You can have a physical act and not have
19 the mental element, and it is not a crime. Because it has to
20 be intent to -- demonstration that the person intended to
21 commit the act.

22 MR. MORAN: Objection, your Honor, improper
23 statement of the law.

24 THE COURT: Sustained.

25 THE DEFENDANT: In the Bible you have --

1 MR. MORAN: Objection, your Honor.

2 THE COURT: Sustained.

3 THE DEFENDANT: During the process of this trial the
4 Judge will instruct you on the procedures to decide based on
5 the evidence given, whether the defendant -- myself, speaking
6 in the third person -- is either guilty or innocent of the
7 crime charged, falsify alarm, criminal mischief. And it's up
8 to the jury to decide impartially, based on the facts alone,
9 without bias, and in order to ensure that justice is properly
10 rendered or due, and that the innocent will be found innocent,
11 if that is the case, if at all possible. And it's up to those
12 things that the Judge will read after the presentation of
13 evidence and closing arguments.

14 The defendant will be presenting witnesses and have
15 a chance to cross-examine them. And that, along with all the
16 evidence for demonstrative purposes the defendant will be
17 presenting that the jury will consider.

18 On July 2nd a false fire alarm was pulled. This
19 means that a sprinkler system was broken, and when that
20 happens the Fire Department is notified. And as the State
21 said, Inspector Edwards is an inspector at the facility, he
22 does the investigation -- investigative part when something
23 like that happens, and the Fire Department is notified.

24 And the discovery does say that water was coming out
25 of the cell, and the defendant did state that he had wanted to

1 go to the Department of Corrections and would do anything in
2 order to do so. And immediately after this incident occurred,
3 defendant was placed immediately back in that same green
4 shell. That's all for opening statement.

5 THE COURT: All right, thank you, Mr. Martinez.

6 Mr. Moran, call your first witness.

7 MR. MORAN: State calls Mark Harriss, your Honor.

8 THE COURT: Okay, Mark Harriss.

9 (THE WITNESS WAS BROUGHT INTO THE COURTROOM.)

10 THE COURT: Good morning, sir.

11 THE WITNESS: Good morning.

12 THE COURT: If you could just stand right there,
13 raise your right hand, and the clerk will swear you in.

14 THE CLERK: Do you swear or affirm that the evidence
15 you shall give in this issue between the State of Florida and
16 this defendant shall be the truth, the whole truth, and
17 nothing but the truth?

18 THE WITNESS: Yes, ma'am.

19 THE COURT: You can have a seat right over here.

20 (THE WITNESS TOOK THE STAND.)

21 THE COURT: And if you don't mind, pull down that
22 microphone so everyone can hear you.

23 / / / /

24 / / / /

25 / / / /