

# **APPENDIX A**

**MANDATE**

**SUPREME COURT OF FLORIDA**

*To the Honorable, the Judges of the:*

**Circuit Court in and for Hillsborough County, Florida**

*WHEREAS, in that certain cause filed in this Court styled:*

**RAY LAMAR JOHNSTON vs. STATE OF FLORIDA**

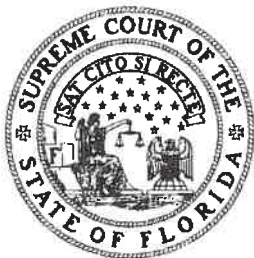
*Case No.: SC17-1678*


*Your Case No.: 291997CF013379000AHC*

*The attached opinion was rendered on: 04/05/2018*

*YOU ARE HEREBY COMMANDED that further proceedings be had in accordance with said opinion, the rule of this Court and the laws of the State of Florida.*

*WITNESS, The Honorable CHARLES T. CANADY, Chief Justice of the Supreme Court of Florida and the Seal of said Court at Tallahassee, the Capital, on this 19th day of July 2018.*



  
Clerk of the Supreme Court of Florida

# **APPENDIX B**

1           IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL  
2           CIRCUIT OF THE STATE OF FLORIDA, IN AND FOR  
3           HILLSBOROUGH COUNTY

4                           CRIMINAL JUSTICE DIVISION

5  
6           STATE OF FLORIDA

7                           vs.

Case No. 97-13379

8           RAY LAMAR JOHNSTON

Division "C"

9  
10 \_\_\_\_\_/

11

12           This cause came on to be heard before the  
13           Honorable Diana M. Allen, Circuit Judge, at the  
14           Hillsborough County Courthouse Annex, Tampa, Florida, on  
15           June 17, 1999, as follows:

16

17           APPEARANCES:

18                       Jay Pruner and Karen Stanley, Assistant State  
19           Attorneys, 800 E. Kennedy Boulevard, Tampa, Florida,  
20           33602, in behalf of the State;

21                       Kenneth Littman, Joseph Registrato, and Girard  
22           Hooper, Assistant Public Defenders, 801 East Twiggs  
23           Street, Tampa, Florida, 33602, in behalf of the  
24           defendant.

25   VOLUME XIII OF XIII

1 brain is, he's nothing more than a human being.

2 You have his life in your hands from this  
3 moment on and I beg of you, I beg of you from  
4 every ounce of strength I have to find mercy in  
5 your heart and let him live out his life in  
6 Florida State Prison. Thank you.

7 THE COURT: Members of the jury, it is now  
8 your duty to advise the court as to what  
9 punishment should be imposed upon the defendant  
10 for his crime of Murder in the First Degree.

11 As you have been told, the final decision  
12 as to what punishment shall be imposed is the  
13 responsibility of the judge. However, it is  
14 your duty to follow the law that will now be  
15 given you by the court and render to the court  
16 an advisory sentence based upon your  
17 determination as to whether sufficient  
18 aggravating circumstances exist to justify the  
19 imposition of the death penalty and whether  
20 sufficient mitigating circumstances exist to  
21 outweigh any aggravating circumstances found to  
22 exist.

23 Your advisory sentence is entitled by law  
24 and will be given great weight by this court in  
25 determining the sentence to impose in this case.

1           It is only under rare circumstances that this  
2           court could impose a sentence other than what  
3           you recommend.

4           Your advisory sentence should be based  
5           upon the evidence that you have heard while  
6           trying the guilt or innocence of the defendant  
7           and evidence that has been presented to you in  
8           these proceedings.

9           The aggravating circumstances that you may  
10          consider are limited to any of the following  
11          that are established by the evidence beyond a  
12          reasonable doubt:

13                 1. The defendant has been previously  
14                 convicted of another capital offense or of a  
15                 felony involving the use of violence to some  
16                 person.

17                 The crimes of rape, armed kidnapping,  
18                 burglary of a conveyance with assault and  
19                 robbery are felonies involving the use of  
20                 violence to another person.

21                 2. The crime for which the defendant is  
22                 to be sentenced was committed while he was  
23                 engaged in the crimes of sexual battery,  
24                 robbery, burglary of a conveyance and  
25                 kidnapping.

1           3. The crime for which the defendant is  
2 to be sentenced was committed for the purpose of  
3 avoiding or preventing a lawful arrest.

4           4. The crime for which the defendant is  
5 to be sentenced was committed for financial  
6 gain.

7           5. The crime for which the defendant is  
8 to be sentenced was especially heinous,  
9 atrocious or cruel.

10           "Heinous" means extremely wicked or  
11 shockingly evil.

12           "Atrocious" means outrageously wicked and  
13 vile.

14           "Cruel" means designed to inflict a high  
15 degree of pain with utter indifference to or  
16 even enjoyment of the suffering of others.

17           The kind of crime intended to be included  
18 as heinous, atrocious or cruel is one  
19 accompanied by an additional act that shows that  
20 the crime was consciousless or pitiless and was  
21 unnecessarily torturous to the victim.

22           The State may not rely upon a single  
23 aspect of the offense to establish more than one  
24 aggravating circumstance. Therefore, if you  
25 find that two or more of the aggravating

1           circumstances are proven beyond a reasonable  
2           doubt by a single aspect of the offense, you are  
3           to consider that as supporting only one  
4           aggravating circumstance.

5           If you find the aggravating circumstances  
6           do not justify the death penalty, your advisory  
7           sentence should be one of life imprisonment  
8           without possibility of parole.

9           Should you find sufficient aggravating  
10          circumstances do exist, it will then be your  
11          duty to determine whether mitigating  
12          circumstances exist that outweigh the  
13          aggravating circumstances. Among the mitigating  
14          circumstances you may consider, if established  
15          by the evidence, are:

16                 1. The capacity of the defendant to  
17                 appreciate the criminality of his conduct or to  
18                 conform his conduct to the requirement of law  
19                 was substantially impaired.

20                 2. Any of the following circumstances  
21                 that would mitigate against the imposition of  
22                 the death penalty:

23                         A. Any aspect of the defendant's  
24                         character, record or background.

25                         B. Any other circumstance of the offense.



1           Each aggravating circumstance must be  
2           established beyond a reasonable doubt before it  
3           may be considered by you in arriving at your  
4           decision.

5           A reasonable doubt, as you previously have  
6           been told, is not a mere possible doubt, a  
7           speculative, imaginary or forced doubt. Such a  
8           doubt must not influence you to disregard an  
9           aggravating circumstance if you have an abiding  
10          conviction that it exists.

11          On the other hand, if, after carefully  
12          considering, comparing and weighing all the  
13          evidence you do not have an abiding conviction  
14          that the aggravating circumstance exists or that  
15          having a conviction it is one which is not  
16          stable but one which wavers and vacillates, then  
17          the aggravating circumstance has not been proved  
18          beyond a reasonable doubt and you should  
19          disregard it because the doubt is reasonable.

20          A reasonable doubt as to the existence of  
21          an aggravating circumstance may arise from the  
22          evidence, conflict in the evidence or the lack  
23          of evidence. If you have a reasonable doubt as  
24          to the existence of an aggravating circumstance,  
25          you should find that it does not exist.

1           However, if you have no reasonable doubt, you  
2           should find that the aggravating circumstance  
3           does exist and give it whatever weight you feel  
4           it should receive.

5           If one or more aggravating circumstances  
6           are established, you should consider all the  
7           evidence tending to establish one or more  
8           mitigating circumstances and give that evidence  
9           such weight as you feel it should receive in  
10          reaching your conclusion as to the sentence  
11          imposed.

12          A mitigating circumstance need not be  
13          proved beyond a reasonable doubt by the  
14          defendant. If you are reasonably convinced that  
15          a mitigating circumstance exists, you may  
16          consider it as established.

17          The sentence that you recommend to the  
18          court must be based upon the facts as you find  
19          them from the evidence and the law. You should  
20          weigh the aggravating circumstances against the  
21          mitigating circumstances and your advisory  
22          sentence must be based on these considerations.  
23          The fact that your recommendation is advisory  
24          does not relieve you of your solemn  
25          responsibility for the court is required to and

1 will give great weight and serious consideration  
2 to your recommendation in imposing sentence.

3 In these proceedings, it is not necessary  
4 that the advisory sentence of the jury be  
5 unanimous. You have heard evidence about the  
6 impact of this homicide on the family, friends  
7 and community of Leanne Coryell. This evidence  
8 may be considered by you to determine the  
9 victim's uniqueness as an individual human being  
10 and the resultant loss by the community members  
11 by the victim's death. However, the law does  
12 not allow you to weigh this evidence as an  
13 aggravating circumstance.

14 Your recommendation to the court must be  
15 based only on the aggravating circumstances and  
16 the mitigating circumstances about which I have  
17 instructed you. The fact that the determination  
18 of whether you recommend a sentence of death or  
19 sentence to life imprisonment in this case can  
20 be reached by a single ballot should not  
21 influence you to act hastily or without due  
22 regard to the gravity of these proceedings.

23 Before you ballot, you should carefully  
24 weigh, sift and consider the evidence and all of  
25 it, realizing that a human life is at stake and

1 bring to bear your best judgment in reaching  
2 your advisory sentence.

3 If a majority of the jury determine that  
4 Ray Lamar Johnston should be sentenced to death,  
5 your advisory sentence will be a majority of the  
6 jury by a vote of blank to blank advise and  
7 recommend to the court that it impose the death  
8 penalty upon Ray Lamar Johnston.

9 On the other hand, if by six or more votes  
10 the jury determines that Ray Lamar Johnston  
11 should not be sentenced to death, your advisory  
12 sentence will be the jury advises and recommends  
13 to the court that it impose a sentence of life  
14 imprisonment upon Ray Lamar Johnston without the  
15 possibly of parole.

16 You will now retire to consider your  
17 recommendation. When you have reached an  
18 advisory sentence in conformity with these  
19 instructions, that form of recommendation should  
20 be signed by your foreperson and returned to the  
21 court. The first thing you must do is select a  
22 new foreperson.

23 And you will have two advisory sentence  
24 forms, one of each as I have read to you.  
25 You'll take those with you into the jury room