

IN THE CIRCUIT COURT,
FOURTH JUDICIAL CIRCUIT,
IN AND FOR DUVAL COUNTY,
FLORIDA

CASE NUMBER: 16-2013-CF-005781-AXXX-MA
DIVISION: CR-D (Circuit)

STATE OF FLORIDA

vs.

DONALD JAMES SMITH, DEFENDANT

☐ Probation Violator

☐ Community Control Violator

☐ Retrial

☐ Resentence

JUDGMENT

The defendant, **DONALD JAMES SMITH**, being personally before this Court, represented by
Julie Schlax, Appt'd, the attorney of record, and the State being represented by
Mark Caliel, and having:

- ☒ been tried and found guilty by jury/~~by court~~ of the following crime(s)
☐ entered a plea of guilty to the following crime(s)
☐ entered a plea of nolo contendere to the following crime(s)

Count	Crime	Offense Statute Number(s)	Degree Of Crime
1	MURDER IN THE FIRST DEGREE	782.04(1)(a)	FC
2	KIDNAPPING A CHILD UNDER THE AGE OF 13 YEARS	787.01(3)(a)	FL
3	SEXUAL BATTERY ON A CHILD LESS THAN 12 YEARS OLD	794.011(2)(a)	FC

☒ and no cause being shown why the defendant should not be adjudicated guilty; IT IS ORDERED that the defendant is hereby ADJUDICATED GUILTY of the above crime(s).

☐ being a qualified offender pursuant to F.S. 943.325, the defendant shall be required to submit a DNA sample as required by law.

☐ and good cause being shown; IT IS ORDERED THAT ADJUDICATION OF GUILT BE WITHHELD.

FILED

MAY 02 2018











Don W. Fussell
CLERK CIRCUIT COURT

STATE OF FLORIDA

CASE NUMBER: 16-2013-CF-005781-AXXX-MA

vs.

DONALD JAMES SMITH, DEFENDANT

FINGERPRINTS OF DEFENDANT				
1. Right Thumb	2. Right Index	3. Right Middle	4. Right Ring	5. Right Little
				
6. Left Thumb	7. Left Index	8. Left Middle	9. Left Ring	10. Left Little
				

Fingerprints taken by: Name: J C FARRAR 67870 Title: J. D.

I HEREBY CERTIFY that the above and foregoing are the fingerprints of the defendant, **DONALD JAMES SMITH**, and that they were placed thereon by the defendant in my presence in open court on this date.

DONE AND ORDERED in open court in Jacksonville, Duval County, Florida, this 2nd day of MAY, 20 18.
Judge

STATE OF FLORIDA

IN THE CIRCUIT COURT, FOURTH

JUDICIAL CIRCUIT, IN AND FOR

DUVAL COUNTY FLORIDA

CASE NUMBER: 16-2013-CF-005781-AXXX-MA

DIVISION: CR-D (Circuit)

vs.

DONALD JAMES SMITH, DEFENDANT

COURT ORDERED COSTS/FINES/FEES

The defendant is hereby ordered to pay the following sums if checked:

- ☒ A sum of \$3.00 as a court cost pursuant to section 938.01, Florida Statutes, (Additional Court Cost Clearing Trust Fund).
- ☒ A sum of \$50.00 pursuant to section 938.03, Florida Statutes, (Crimes Compensation Trust Fund).
- ☒ A sum of \$225.00 pursuant to section 938.05, Florida Statutes, (Local Government Criminal Justice Trust Fund).
- ☒ A sum of \$3.00 pursuant to section 938.19, Florida Statutes, and section 634.108, Ordinance Code, (Assessment of Additional Court Costs-Duval County Teen Court Trust Fund).
- ☒ A sum of \$65.00 pursuant to section 939.185(1)(a), Florida Statutes, and section 634.102(c), Ordinance Code, (Assessment of Additional Court Costs to be used for innovations, legal aid, law library, teen court programs).
- ☐ A sum of \$100.00 pursuant to section 938.055, Florida Statutes, (FDLE Operating Trust Fund).
- ☐ A sum of \$100.00 pursuant to section 938.27(1), Florida Statutes, (Sheriff's Office Investigative Cost).
- ☒ A sum of \$14946.74 pursuant to section 938.27(8), Florida Statutes, (Cost of Prosecution).
- ☒ A sum of \$20.00 pursuant to section 938.06, Florida Statutes, (Assessment of Additional Court Costs for Crime Stoppers Trust Fund).
- ☒ A sum of \$100.00 pursuant to section 938.29, Florida Statutes, (Court Appointed Counsel Fees).
- ☒ A sum of \$50.00 pursuant to section 27.52, Florida Statutes, (Application for Court Appointed Counsel Fees).
- ☒ A sum of \$302.00 pursuant to section 938.10, Florida Statutes, (Crimes Against Minors).
- ☒ A sum of \$201.00 pursuant to section 938.08, Florida Statutes, (Funding Programs in Domestic Violence).
- ☒ A sum of \$302.00 pursuant to section 938.085, Florida Statutes, (Rape Crisis Trust Fund).
- ☒ A sum of \$50.00 pursuant to section 775.083(2), Florida Statutes, (Cost).
- ☐ A fine in the sum of \$ _____ pursuant to section 775.0835, Florida Statutes, (This provision refers to the optional fine for the Crimes Compensation Trust Fund and is not applicable unless checked and completed. Fines imposed as a part of a sentence to section 775.083, Florida Statutes, are to be recorded on the sentence page(s)).
- ☐ A sum of \$ _____ pursuant to section 938.04, Florida Statutes, (additional cost 5% of fine).
- ☒ A sum of \$2.00 as a court cost pursuant to section 938.15, Florida Statutes, (Criminal Justice Education by Municipalities and Counties).
- ☐ A sum of \$15.00 pursuant to section 938.13, Florida Statutes, (Misd. convictions involving drugs or alcohol).
- ☐ A sum of \$135.00 pursuant to section 938.07, Florida Statutes, (EMS - DUI/BUI cases).
- ☐ A sum of \$30.00 pursuant to section 318.18(13), Florida Statutes, and section 634.102, Ordinance Code, (CHT - State Court Facilities).
- ☐ A sum of \$3.00 pursuant to section 318.18(17), Florida Statutes, (State Radio System (SRS)).
- ☐ A sum of \$ _____ for the cost of collecting the DNA sample required by section 943.325, Florida Statutes.
- ☒ Restitution in accordance with attached order.
- ☐ Other _____

DONE AND ORDERED in open court in Jacksonville, Duval County, Florida, this 2nd day ofClay, 20 18.[Signature]
Judge

DONALD JAMES SMITH, DEFENDANT

CASE NUMBER: 16-2013-CF-005781-AXXX-MA
OBTS # _____**SENTENCE**(As to Count(s) 1)

The defendant, being personally before this court, accompanied by the defendant's attorney of record Julie Schlax, Appt'd, and the adjudication/withhold having been determined, 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:

- ☒ and the court having on 02/14/2018 deferred imposition of sentence until this date.
- ☐ and the court having previously entered a judgment in this case on _____ now resents 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 (check all that are applicable; unmarked sections are inapplicable):

- ☐ The defendant pay a fine of \$_____, pursuant to section 775.083, Florida Statutes plus \$_____ at the 5% surcharge required by section 938.04, Florida Statutes.
- ☒ The defendant is hereby committed to the custody of the Department of Corrections.
- ☐ The defendant is hereby committed to the custody of the Sheriff of Duval County, Florida.
- ☐ The defendant is sentenced as a Youthful Offender in accordance with section 958.04, Florida Statutes.

To be Imprisoned (check one; unmarked sections are inapplicable):

- ☐ For a term of natural life.
- ☒ For a term of Death.
- ☐ Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.
- ☐ Youthful Offender Sentence:

Pursuant to the Florida Youthful Offender Act, the defendant is hereby sentenced to _____, of which _____ shall be served by incarceration followed by _____ in a Community Control Program according to the terms and conditions set forth in a separate order.

☐ Split Sentence (complete the appropriate paragraph):

- ☐ Followed by a period of _____ on probation/community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order.
- ☐ However, after serving a period of _____ imprisonment in _____, the balance of sentence shall be suspended and the defendant shall be placed on probation/community control for a period of _____ under the supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order.

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

Imposition of Sentence Stayed and Withheld (check one; unmarked sections are inapplicable):

- ☐ The court hereby stays and withholds the imposition of sentence and places the defendant on:
- ☐ Probation/community control for a period of _____ under the supervision of the Department of Corrections with a special condition that the defendant serve _____ in Duval County Jail, with credit for _____ days.
- ☐ Unsupervised probation for a period of _____ with the special condition that the defendant serve _____ days in Duval County Jail, with credit for _____ days. Unsupervised probation will terminate upon completion of special condition.

(All other general/special conditions of probation/community control shall be set forth in a separate order.)

DONALD JAMES SMITH, DEFENDANT

CASE NUMBER: 16-2013-CF-005781-AXXX-MA
OBTS # _____**SENTENCE**(As to Count(s) 2-3)

The defendant, being personally before this court, accompanied by the defendant's attorney of record Julie Schlax, Appt'd, and the adjudication/withhold having been determined, 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:

- ☒ and the court having on 02/14/2018 deferred imposition of sentence until this date.
- ☐ and the court having previously entered a judgment in this case on _____ now resents 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 (check all that are applicable; unmarked sections are inapplicable):

- ☐ The defendant pay a fine of \$_____, pursuant to section 775.083, Florida Statutes plus \$_____ at the 5% surcharge required by section 938.04, Florida Statutes.
- ☒ The defendant is hereby committed to the custody of the Department of Corrections.
- ☐ The defendant is hereby committed to the custody of the Sheriff of Duval County, Florida.
- ☐ The defendant is sentenced as a Youthful Offender in accordance with section 958.04, Florida Statutes.

To be Imprisoned (check one; unmarked sections are inapplicable):

- ☐ For a term of natural life.
- ☒ For a term of Life.
- ☐ Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.
- ☐ Youthful Offender Sentence:

Pursuant to the Florida Youthful Offender Act, the defendant is hereby sentenced to _____, of which _____ shall be served by incarceration followed by _____ in a Community Control Program according to the terms and conditions set forth in a separate order.

☐ Split Sentence (complete the appropriate paragraph):

- ☐ Followed by a period of _____ on probation/community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order.
- ☐ However, after serving a period of _____ imprisonment in _____, the balance of sentence shall be suspended and the defendant shall be placed on probation/community control for a period of _____ under the supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order.

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

Imposition of Sentence Stayed and Withheld (check one; unmarked sections are inapplicable):

- ☐ The court hereby stays and withholds the imposition of sentence and places the defendant on:
- ☐ Probation/community control for a period of _____ under the supervision of the Department of Corrections with a special condition that the defendant serve _____ in Duval County Jail, with credit for _____ days.
- ☐ Unsupervised probation for a period of _____ with the special condition that the defendant serve _____ days in Duval County Jail, with credit for _____ days. Unsupervised probation will terminate upon completion of special condition.

(All other general/special conditions of probation/community control shall be set forth in a separate order.)

DONALD JAMES SMITH, DEFENDANT

CASE NUMBER: 16-2013-CF-005781-AXXX-MA
OBTS # _____**OTHER PROVISIONS**(As to Count(s) 1 & 2)**Current Jail****Credit Time:**

- ☒ It is further ordered that the defendant shall be allowed a total of 1775 days as credit for time incarcerated on this case / count before imposition of this sentence.

**Credit for Time Served
on Violation of Probation /
Community Control:**
(check one)

- ☐ It is further ordered that the defendant shall 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 count(s) _____. (Offenses committed on or after January 1, 1994.)
- ☐ 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 and unforfeited gain time previously awarded on count(s) _____. (Offenses committed before 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 on count(s) _____. (Offenses committed between October 1, 1989, and December 31, 1993.)

Prior Prison Credit:

- ☐ It is further ordered that the defendant shall be allowed _____ days time served between date of the original sentence being vacated to the date of resentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served on count(s) _____.

**Forfeiture of Prior
Gain/Good Time:**
(check one)

- ☐ The court deems the unforfeited gain time previously awarded on the above count(s) forfeited under section 948.06(7)

OR

- ☐ The court allows unforfeited gain time previously awarded on the above count(s). (Gain time may be subject to forfeiture by the Department of Corrections under section 944.28(1))

**Consecutive/
Concurrent As to
Other Counts:**
(if Applicable)

- ☒ It is further ordered that the sentence imposed for count(s) 2 shall run
(check one)

☒ consecutive to ☐ concurrent with the sentence set forth in count 1
of this case.

**Consecutive/
Concurrent As To
Other Sentences:**
(if Applicable)

It is further ordered that the composite term of all sentences imposed for the counts specified in this order shall run (check one) ☐ consecutive to
☐ concurrent with the following: (check one)

☐ any active sentence being served.

☐ specific sentences: _____

Retention of Jurisdiction:

- ☐ The court retains jurisdiction over the defendant pursuant to section 947.16(4), Florida Statutes.

DONALD JAMES SMITH, DEFENDANT

CASE NUMBER: 16-2013-CF-005781-AXXX-MA
OBTS # _____**OTHER PROVISIONS**(As to Count(s) 3)**Current Jail****Credit Time:**

- ☒ It is further ordered that the defendant shall be allowed a total of 1775 days as credit for time incarcerated on this case / count before imposition of this sentence.

**Credit for Time Served
on Violation of Probation /
Community Control:**
(check one)

- ☐ It is further ordered that the defendant shall 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 count(s) _____. (Offenses committed on or after January 1, 1994.)
- ☐ 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 and unforfeited gain time previously awarded on count(s) _____. (Offenses committed before 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 on count(s) _____. (Offenses committed between October 1, 1989, and December 31, 1993.)

Prior Prison Credit:

- ☐ It is further ordered that the defendant shall be allowed _____ days time served between date of the original sentence being vacated to the date of resentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served on count(s) _____.

**Forfeiture of Prior
Gain/Good Time:**
(check one)

- ☐ The court deems the unforfeited gain time previously awarded on the above count(s) forfeited under section 948.06(7)

OR

- ☐ The court allows unforfeited gain time previously awarded on the above count(s). (Gain time may be subject to forfeiture by the Department of Corrections under section 944.28(1))

**Consecutive/
Concurrent As to
Other Counts:**
(if Applicable)

- ☒ It is further ordered that the sentence imposed for count(s) 3 shall run
(check one)

☒ consecutive to ☐ concurrent with the sentence set forth in count 2
of this case.

**Consecutive/
Concurrent As To
Other Sentences:**
(if Applicable)

It is further ordered that the composite term of all sentences imposed for the counts specified in this order shall run (check one) ☐ consecutive to
☐ concurrent with the following: (check one)

- ☐ any active sentence being served.
☐ specific sentences: _____

Retention of Jurisdiction:

- ☐ The court retains jurisdiction over the defendant pursuant to section 947.16(4), Florida Statutes.

DONALD JAMES SMITH, DEFENDANT

CASE NUMBER: 16-2013-CF-005781-AXXX-MA

SPECIAL PROVISIONS(As to Count(s) 2 & 3)

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

- ☐ **Firearm:** It is further ordered that the _____ mandatory minimum imprisonment provisions of section 775.087(2)(a), Florida Statutes, is hereby imposed for the sentence specified in this count.
- ☐ **Drug Trafficking:** It is further ordered that the _____ mandatory minimum imprisonment provision and a fine of \$ _____, as set forth in 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 mandatory 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 mandatory minimum term of _____ year(s) must be served prior to release. The requisite findings of the court are set forth in a separate order or stated on the record in open court.
- ☐ **Violent Career Criminal:** The defendant is adjudicated a violent career criminal and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(d), Florida Statutes. A mandatory minimum term of _____ year(s) must be served prior to release. The requisite findings of the court are set forth in a separate order or stated on the record in open court.
- ☐ **Prison Release Reoffender:** The defendant is adjudicated a prison release reoffender in accordance with the provisions of section 775.082(9), and is sentenced to serve 100 percent of the maximum sentence provided by law for the offense of which the defendant has been convicted. A mandatory minimum term of _____ year(s) imposed as PRR in accordance with the provisions of this section.
- ☐ **Law Enforcement Protection Act:** It is further ordered that the defendant shall serve a minimum of _____ year(s) before release in accordance with section 775.0823, Florida Statutes (offenses committed before January 1, 1994).
- ☐ **Capital Offense (Excluding First Degree Murder and s. 790.161):** 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 mandatory 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).
- ☐ **Continuing Criminal Enterprise:** It is further ordered that the 25-year mandatory minimum sentence provisions of section 893.20, Florida Statutes, are hereby imposed for the sentence specified in this count (offenses committed before January 1, 1994).
- ☐ **DUI Manslaughter:** It is further ordered that the 4 year mandatory minimum sentence provision pursuant to section 316.193(3)(c)3, Florida Statutes, is hereby imposed for the sentence specified in this count.
- ☐ **Dangerous Sexual Felony Offender:** The defendant is adjudicated a dangerous sexual felony offender and has been sentenced to an extended term in accordance with the provisions of section 794.0115, Florida Statutes. A mandatory minimum term of _____ year(s) must be served. The requisite findings of the court are set forth in a separate order or stated on the record in open court.
- ☐ **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.
- ☐ **Sexual Offender:** The defendant is adjudicated a Sexual Offender in accordance with the provisions of section 943.0435(1)(a), Florida Statutes.
- ☒ **Sexual Predator:** The defendant is adjudicated a Sexual Predator in accordance with the provisions of section 775.21(4)(a), Florida Statutes.
- ☐ **Youthful Offender:** The defendant is adjudicated a Youthful Offender in accordance with the provisions of section 958.04(1)(a), Florida Statutes.
- ☐ **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).

DONALD JAMES SMITH, DEFENDANT

CASE NUMBER:16-2013-CF-005781-AXXX-MA
OBTS # _____

In the event the defendant is sentenced to a period of incarceration in state prison, the Sheriff of Duval County, Florida, is hereby ordered and directed to deliver the defendant to the Florida 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.

In open court, the defendant was advised of the right to appeal from this sentence by filing a notice of appeal with the clerk of this court within 30 days from this date and the right to the assistance of counsel in taking the appeal at the expense of the State on showing of indigency.

In imposing the above sentence, the court further recommends / adjudges:

DONE AND ORDERED in open court in Jacksonville, Duval County, Florida, this 2nd day of May, 2018.

Judge