

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

STATE OF FLORIDA

CASE NO.: 162013CF005781AXXXMA

VS.

DIVISION: CRD

DONALD JAMES SMITH

VERDICT AS TO SENTENCE

We, the jury, find as follows as to the Defendant, DONALD JAMES SMITH, in this case:

A. Aggravating Factors:

We, the jury, unanimously find that the State has proven the following Aggravating Factors beyond a reasonable doubt as to the Defendant DONALD JAMES SMITH, in this case:

1. DONALD JAMES SMITH was previously convicted of a felony involving the use or threat of violence to another person.

YES X NO \_\_\_\_\_

2. The First Degree Murder was committed while DONALD JAMES SMITH was engaged in the commission of a Kidnapping and a sexual battery.

YES X NO \_\_\_\_\_

3. The First Degree Murder was committed for the purpose of avoiding or preventing a lawful arrest.

YES X NO \_\_\_\_\_

4. The First Degree Murder was especially heinous, atrocious or cruel

YES X NO \_\_\_\_\_

**FILED,**

FEB 22 2018

*Della W. Dmsell*  
CLERK CIRCUIT COURT

5. The First Degree Murder was committed in a cold, calculated, and premeditated manner, without any pretense of moral or legal justification.

YES X NO \_\_\_\_\_

6. Cherish Perrywinkle was a person less than 12 years of age.

YES X NO \_\_\_\_\_

If you answer YES to at least one of the aggravating factors listed above, please proceed to Section B.

If you answered NO to every aggravating factor listed above, do not proceed to Section B; the Defendant, DONALD JAMES SMITH, is not eligible for the death penalty and will be sentenced to life in prison without the possibility of parole. Please sign and date the verdict form and return it to the courtroom.

---

B. Sufficiency of the Aggravating Factors:

Reviewing the aggravating factors that we unanimously found to be proven beyond a reasonable doubt in Section A above, we, the jury, also unanimously find that the aggravating factors are sufficient to warrant a possible sentence of death.

YES X NO \_\_\_\_\_

If you answer YES to Section B, please proceed to Section C.

If you answer NO to Section B, do not proceed to Section C; the Defendant, DONALD JAMES SMITH will be sentenced to life in prison without the possibility of parole. Please sign and date the verdict form and return it to the courtroom.

---

C. Statutory Mitigating Circumstances:

We, the jury, find that the following statutory mitigating circumstances have been established by a greater weight of the evidence as to the Defendant, DONALD JAMES SMITH, in this case:

1. The First Degree Murder was committed while DONALD JAMES SMITH was under the influence of extreme mental or emotional disturbance.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

2. The capacity of DONALD JAMES SMITH to appreciate the criminality of his/her conduct or to conform his conduct to the requirements of law was substantially impaired.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

3. DONALD JAMES SMITH's age at the time of the crime.

YES X \_\_\_\_\_ NO \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: 12 YES to \_\_\_\_\_ NO

4. The existence of any other factors in DONALD JAMES SMITH's character, background, or life or the circumstances of the offense that would mitigate against the imposition of the death penalty.

A. DONALD JAMES SMITH's biological father left before he was born. As a result, he never had a relationship with him.

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

B. DONALD JAMES SMITH's parents were forced to divorce by his maternal grandparents "who openly disapproved of his biological father."

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

C. DONALD JAMES SMITH's mother was 17 years old when she gave birth to him.

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

D. DONALD JAMES SMITH was born premature with low birth weight.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

E. DONALD JAMES SMITH's mother wanted to give him up for adoption.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

F. Mental illness runs in DONALD JAMES SMITH's mother's side of the family and in his biological father's family.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

G. Addiction runs in DONALD JAMES SMITH's mother's side of the family and in his biological father's family.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

H. Emotional instability leading to physical violence is present on DONALD JAMES SMITH's father's side of the family.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

- I. DONALD JAMES SMITH's paternal uncle shot his grandfather to death.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

- J. DONALD JAMES SMITH's mother spent very little time with him as a baby, instead focusing all of her attention on finding a man who could provide her with the lifestyle her parents felt she deserved.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

- K. DONALD JAMES SMITH moved out of his grandparents' home when his mother married Clifton (Cliff) Smith, the man who formally adopted him, which was extremely traumatic.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

L. Cliff was verbally and emotionally abusive to DONALD JAMES SMITH. He also locked DONALD JAMES SMITH outside as punishment.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

M. Cliff was physically abusive to DONALD JAMES SMITH.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

N. DONALD JAMES SMITH was traumatized by his stepfather's treatment. He became clingy, stopped eating, and wet the bed long past the age of typical potty training.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

O. Cliff was paranoid and obsessed with violence. DONALD JAMES SMITH was terrified of what he witnessed.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

P. Cliff's job in the insurance business forced them to move regularly. As a result, DONALD JAMES SMITH was repeatedly uprooted from his home, adding to the instability of his living environment.

YES \_\_\_\_\_ NO       X      

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

Q. Because of the frequent moves, DONALD JAMES SMITH was frequently bullied. This caused him to feel alienated, detached, despondent, and angry. DONALD JAMES SMITH resorted to paying other kids to play with their toys.

YES \_\_\_\_\_ NO       X      

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

R. DONALD JAMES SMITH was sexually molested at the age of eight by two neighborhood teenagers.

YES \_\_\_\_\_ NO       X      

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO



S. The teenagers coerced DONALD JAMES SMITH into watching them violently sexually molest several girls. He found the experience confusing and frightening.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

T. DONALD JAMES SMITH did not reveal the sexual abuse to his mother.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

U. DONALD JAMES SMITH's mother suspected that her sister's husband, Bob, molested her son; however she did not confront them.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

V. DONALD JAMES SMITH never received treatment for the sexual abuse he endured.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

W. Cliff was sexually inappropriate with DONALD JAMES SMITH. He touched DONALD JAMES SMITH on his buttocks. He called DONALD JAMES SMITH sexually explicit names.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

X. When his mother divorced Cliff after seven years of marriage, this was yet another change that brought instability into DONALD JAMES SMITH's life.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

Y. DONALD JAMES SMITH's second stepfather, Dr. Marlin Moore, was a cold, self-centered, and aloof man who insisted that his wife and stepson call him "Dr. Moore."

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

Z. Dr. Moore was verbally and physically abusive to DONALD JAMES SMITH. He made it known that he "didn't have time for children."

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

AA. As a teenager, DONALD JAMES SMITH began self-medicating with pills from Dr. Moore's home office. He was never confronted with the drug use.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

BB. DONALD JAMES SMITH's drug abuse escalated to regularly using marijuana, LSD, PCP, MDA, Mescaline, Peyote, Quaaludes, and cocaine.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

CC. DONALD JAMES SMITH dropped out of school in the 10th grade. Although DONALD JAMES SMITH was intelligent, he had lost all motivation based on drug use, depression, and anger.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

DD. As a teenager, DONALD JAMES SMITH began to get arrested.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

EE. At the age of 15, DONALD JAMES SMITH began engaging in voyeurism.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

FF. DONALD JAMES SMITH was raped while incarcerated.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

GG. When DONALD JAMES SMITH was released from jail, his drug abuse spiraled into full-blown crack addiction.

YES \_\_\_\_\_ NO       X      

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

HH. On crack, DONALD JAMES SMITH's inability to control his impulses was intensified to the point that he felt like another person. On the streets, DONALD JAMES SMITH became notorious for his behavior while high. He was paranoid, manic, unstable, and impulsive.

YES \_\_\_\_\_ NO       Y      

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

II. DONALD JAMES SMITH's mother enabled his drug addiction. She drove him to pay off his drug debts and, if he was unable to make the trip, paid them off herself. She continued this for decades.

YES \_\_\_\_\_ NO       Y      

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

JJ. At the age of 20, DONALD JAMES SMITH attempted suicide for the first time by driving into an oak tree on Orange Picker Road. He flipped his car, but survived the accident. DONALD JAMES SMITH did not receive treatment for his injuries.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

KK. DONALD JAMES SMITH experienced a dissociative episode due to drug use where he lost time.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

LL. DONALD JAMES SMITH made his second suicide attempt in the Duval County Jail.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

MM. In 1977, DONALD JAMES SMITH was designated as a Mentally Disordered Sex Offender and committed to the North Florida Evaluation and Treatment Center (NFETC).

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

NN. Throughout his adult life, DONALD JAMES SMITH spent hundreds of dollars per day on crack. During the year of 2002, he spent more than \$90,000 in a four month period. He went on binges that lasted for weeks. During these episodes, DONALD JAMES SMITH did not eat or sleep.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

OO. DONALD JAMES SMITH fathered a son, Donald James Smith, Jr., born June 2, 1992. He married his son's mother, Francine Brown, but the relationship was short-lived.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

PP. DONALD JAMES SMITH was far from a perfect father. However, he has tried to parent his son to the best of his ability.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

QQ. Donald James Smith, Jr. has developed a close relationship with his father since he has been incarcerated.

YES X NO \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: 7 YES to 5 NO

RR. DONALD JAMES SMITH has been repeatedly diagnosed as having Antisocial Personality Disorder (ASPD), Polysubstance Dependence, Pedophilia, and Cocaine Dependence.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO



SS. In 1999, DONALD JAMES SMITH was designated as a Sexually Violent Predator and subsequently committed to the Martin Treatment Center (MTC) through the Jimmy Ryce Civil Commitment Act. While detained at MTC, DONALD JAMES SMITH did not complete the treatment plan developed for him.

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

TT. While at the Martin Treatment Center, DONALD JAMES SMITH engaged in a sexual relationship with another patient who was known for being HIV positive. This was regarded as DONALD JAMES SMITH's third suicide attempt.

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

UU. In spite of the fact that DONALD JAMES SMITH did not participate in counseling, he was released from the Martin Treatment Center based on a decision made by members of the State Attorney's Office in Duval County.

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

VV. Once released from the Martin Treatment Center, he was required to receive a psychosexual evaluation and treatment. Dr. James Vallely completed the evaluation and concluded that DONALD JAMES SMITH was highly likely to re-offend.

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

WW. DONALD JAMES SMITH was arrested for Dealing in Stolen Property and Burglary and was eligible to receive thirty years in prison as a Habitual Offender. However, members of the State Attorney's Office in Duval County permitted him to plea to a sentence of 4 years in prison. DONALD JAMES SMITH was not placed on any form of supervision upon his release from prison.

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

XX. In 2006, a state psychological assessment determined that DONALD JAMES SMITH did not meet the criteria for civil commitment in the Jimmy Ryce Civil Commitment Center, although he had never received any meaningful rehabilitation.

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

YY. In 2011, DONALD JAMES SMITH Baker Acted himself. He reported homicidal thoughts, auditory, and visual hallucinations. He also admitted a history of using cocaine and Lortab. He was diagnosed as having a potential for homicide, suicide, and violence. The center recommended one-on-one counseling and let him stay three or four days. They never followed up with therapy.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

ZZ. In 2009, DONALD JAMES SMITH was arrested for attempting to lure a 9-year-old girl while posing as a Department of Children and Families (DCF) worker. If found guilty, he could have been sentenced to 10 years in the DOC, but members of the State Attorney's Office in Duval County agreed to a plea agreement allowing a county jail sentence, which bypassed further screening into the Jimmy Ryce Civil Commitment Center.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

AAA. On June 1, 2013, DONALD JAMES SMITH was released from the Duval County Jail. He was not placed on any kind of supervision by the State of Florida.

YES \_\_\_\_\_ NO X

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

BBB. Three weeks before the murder of Cherish Perrywinkle, DONALD JAMES SMITH went to Shands Hospital and then was Baker Acted. He stated that he was having violent thoughts and wanted to get into a residential program. The center gave him "a new brochure" and told him to "study and practice." They allowed him to stay approximately 24 hours.

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

CCC. Neuropsychological testing has indicated that DONALD JAMES SMITH's brain functioning is abnormal. He has deficits in executive functioning and poor impulse control.

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

DDD. DONALD JAMES SMITH's neuropsychological disorders are exacerbated by substance abuse and addiction.

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

EEE. Medical testing, specifically PET, MRI, and DTI scans, have revealed that DONALD JAMES SMITH's brain functioning is abnormal.

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

FFF. DONALD JAMES SMITH's brain abnormalities are consistent with someone who has suffered brain damage.

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

GGG. DONALD JAMES SMITH has suffered from significant mental illness for most of his life.

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

HHH. DONALD JAMES SMITH's mental illness is not something he has chosen.

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

III. DONALD JAMES SMITH did not choose his family.

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

JJJ. DONALD JAMES SMITH did not choose the way his family treated him.

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

KKK. DONALD JAMES SMITH did not choose to be sexually molested.

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

LLL. DONALD JAMES SMITH's childhood experiences shaped the person he became as an adult.

YES \_\_\_\_\_ NO X \_\_\_\_\_

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

MMM. At the time of the offenses, DONALD JAMES SMITH was 56 years old. He is now 61 years old.

YES \_\_\_\_\_ NO       X      

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

NNN. DONALD JAMES SMITH has been diagnosed with Chronic Obstructive Pulmonary Disease (COPD), heart disease, Hepatitis B, and Hepatitis C.

YES \_\_\_\_\_ NO       X      

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

OOO. DONALD JAMES SMITH has been a strong support system for his mother, who is receiving treatment for breast cancer.

YES \_\_\_\_\_ NO       X      

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

PPP. DONALD JAMES SMITH has not been a threat to correctional officers or other inmates in the Duval County Jail and the Department of Corrections.

YES \_\_\_\_\_ NO       X      

If you answered YES above, please provide below the numerical jury vote as to the existence of this statutory mitigating circumstance:

Vote of: \_\_\_\_\_ YES to \_\_\_\_\_ NO

Please proceed to Section D, regardless of your findings in Section C.

---

D. Eligibility for the Death Penalty

We, the jury, unanimously find that the aggravating factors that were proven beyond a reasonable doubt in Section A above outweigh the mitigating circumstances established in Section C above.

YES   X                        NO           

If you answered YES to Section D, please proceed to Section E.

If you answered NO to Section D, do not proceed; the Defendant, DONALD JAMES SMITH will be sentenced to life in prison without the possibility of parole. Please sign and date the verdict form and return it to the courtroom.

---



E. Jury Verdict as to Death Penalty

Having unanimously found that at least one aggravating factor has been established beyond a reasonable doubt in Section A above; that the aggravating factors are sufficient to warrant a sentence of death in Section B above; and that the aggravating factors outweigh the mitigating circumstances in Section D above; we, the jury, unanimously find that the Defendant, DONALD JAMES SMITH, should be sentenced to death.

YES   X                        NO                   

If NO, our numeric vote to impose a sentence of life imprisonment without the possibility of parole is as follows:

           Life                                 Death

If your vote to impose death is less than unanimous, the trial court shall impose a sentence of life without the possibility of parole.

So say we all, this   22<sup>nd</sup>   day of February, 2018.



FOREPERSON