

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

CASE NO.: 16-2013-CF-5781

DIVISION: CR-D

STATE OF FLORIDA

VS.

DONALD SMITH

---

**MOTION FOR POST VERDICT, PRE-SENTENCING MISTRIAL AND  
REQUEST FOR NEW PENALTY PHASE**

Defendant, Donald Smith, by and through his undersigned attorney, W. Charles Fletcher, respectfully moves this Honorable Court to grant Defendant's Motion for Post Verdict, Pre-Sentencing Mistrial and Request for New Penalty Phase in this case and as grounds therefore, states:

1. The defendant was found guilty as charged on February 14, 2018.
2. A penalty phase was conducted and the jury returned a 12-0 recommendation for death on February 22, 2018.
3. A Spencer hearing was set for March 28, 2018 and a sentencing date was set for May 2, 2018 at 9:00 am.

4. On March 29, 2018 the prosecution team was interviewed by Janese Harris of "News 4 Jax," a local news station. During the interview both prosecutors indicated that they had "daughters" and that the case took an emotional toll on them. They further stated that "this case is among the worst of the worst, so it was important that we also send a message that the highest levels of the office were behind the prosecution of this matter."
5. Comments inviting a jury, or a member of the judiciary, to send a message with its verdict or sentence are improper under Florida law.
6. Here, the State has done outside of Court, through a televised interview, what it was clearly prohibited from doing before the Court.
7. As Mr. Smith has not been sentenced yet, such public statements violate his right to a fair trial and sentencing hearing.

WHEREFORE, Defendant respectfully requests this Honorable Court to grant this motion and hold a new penalty phase in this case.

Respectfully submitted,

/s/ William Charles Fletcher

---

W. Charles Fletcher, Esquire

Defendant's Motion For Post-Verdict,  
Pre-Sentencing Motion for Mistrial.

Page 3

---

Florida Bar No.: 0125792  
8833 Perimeter Park Boulevard  
Suite 104  
Jacksonville, Florida 32216  
Tel: (904) 314-0233  
Williamfletcher96@yahoo.com  
Attorney for Defendant

I HEREBY CERTIFY that a copy of the above and foregoing  
“Defendant’s Motion for Post-Verdict, Pre-Sentencing Motion for Mistrial” has  
been furnished to the Office of the State Attorney, by e-delivery, this 1<sup>st</sup> day of May  
2018.

/s/ William Charles Fletcher

---

W. Charles Fletcher, Esquire