

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY**

STATE OF FLORIDA  
Plaintiff,

CASE NO: 23-CF-2935

Vs.

TOMASZ KOSOWSKI,  
Defendant.

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**REQUEST FOR JURY INSTRUCTION**

**NOW INTO COURT** through undersigned counsel comes the Defendant, pursuant to the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution and Article 1, Sections 9, 16, 17, 21, and 22 of the Florida Constitution and applicable Rules of Criminal Procedure and in support thereof would show:

1. TOMASZ KOSOWSKI has been indicted for the offense of capital murder.
2. The State is seeking the death penalty. The Eighth Amendment to the United States Constitution requires a greater degree of accuracy and fact-finding than would be true in a noncapital case. *Gilmore v. Taylor*, 508 U.S. 333, 113 S. Ct. 2112, 124 L. Ed. 2d 306 (1993); *Woodson v. North Carolina*, 428 U.S. 280, 305 (1976).
3. The jurisprudence that has evolved from the Eight Amendment to the United States Constitution requires a heightened degree of reliability in the sentencing process. *Woodson v. North Carolina*, 428 U.S. 280.
4. This heightened degree of reliability cannot be assured without requiring that the jury be required to be certain, beyond all doubt, that death is the appropriate sentence.
5. Without waiving any of the objections raised by Ritchie to the language of the aggravating factors jury instructions, should this case reach the penalty phase, the jurors should be instructed that in order to find that an aggravating factor exists, that each of them must be persuaded beyond all doubt, not just by a reasonable doubt.
6. Without waiving any of the objections raised by Ritchie to the language of the aggravating factors jury instructions, should this case reach the penalty phase, the jurors should be instructed that in order to find that the aggravating factors outweigh the mitigating factors, that each of them must be persuaded beyond all

doubt, not just by a reasonable doubt.

7. Without waiving any of the objections raised by Ritchie to the language of the mitigating factors jury instructions, should this case reach the penalty phase, the jurors should be instructed that in order to find that there is no circumstance that would warrant that a sentence of life imprisonment rather than a death sentence be imposed, that each of them must be persuaded beyond all doubt that such a circumstance does not exist.

**WHEREFORE**, the Defendant respectfully requests that this Court enter an Order granting the Defendant's request for Jury Instructions.

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing has been furnished via electronic submission to the Office of the State Attorney on this 29<sup>th</sup> day of January 2026.

Respectfully submitted,

/s/Daniel M. Hernandez  
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