

APPENDIX E

**FLORIDA COLLEGE OF
ADVANCED JUDICIAL STUDIES**

MODEL

PENALTY PHASE

JURY INSTRUCTIONS

MARCH 31, 2007

These instructions do not follow the current standard jury instructions. However, they are presently under consideration by the Supreme Court. Death penalty jurisprudence changes almost weekly and the standard instructions are deficient in several respects. These instructions may be incomplete or may contain instructions that are unnecessary to a particular case. Counsel and trial judges are responsible to research the current decisions involving jury instructions and instruct the jury correctly in each individual capital case.

PENALTY PHASE INSTRUCTIONS

INTRODUCTION

Ladies and gentlemen of the jury, it is now your duty to advise the court as to the punishment that should be imposed upon the defendant for the crime of First Degree Murder. You must follow the law that will now be given to you and render an advisory sentence based upon your determination as to whether sufficient aggravating circumstances exist to justify the imposition of the death penalty or whether sufficient aggravating circumstances exist that outweigh any mitigating circumstances found to exist. As you have been told, the final decision as to what punishment shall be imposed is my responsibility. However, the law requires that you render an advisory sentence as to what punishment should be imposed upon the defendant. I must give your recommendation great weight in determining what sentence to impose. It is only under rare circumstances that I would impose a sentence other than the sentence you recommend.

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

AGGRAVATING CIRCUMSTANCES

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

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

- 1.
- 2.

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

Should you find sufficient aggravating circumstances do exist to justify

