

Appendix – A

Appendix - A

1020

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D17-3448

VERNON ROBINSON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Duval County.
Steven B. Whittington, Judge.

July 17, 2018

PER CURIAM.

AFFIRMED.

ROBERTS, WETHERELL, and OSTERHAUS, JJ., concur.

*Not final until disposition of any timely and
authorized motion under Fla. R. App. P. 9.330 or
9.331.*

Vernon Robinson, pro se, Appellant.

EX (A)

25 17

DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive
Tallahassee, Florida 32399-0950
Telephone No. (850)488-6151

August 10, 2018

CASE NO.: 1D17-3448
L.T. No.: 16-1982-CF-000-378-AXXXMA

Vernon Robinson v. State of Florida

Appellant / Petitioner(s), Appellee / Respondent(s)

BY ORDER OF THE COURT:

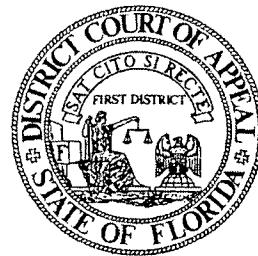
By order dated July 17, 2018, Appellant was directed to show cause why sanctions should not be imposed on him based on his repeated frivolous collateral challenges to his 1982 judgment and sentence. The response filed by Appellant does not provide an adequate justification for Appellant's filings. Accordingly, in order to preserve this court's limited time and resources to consider potentially meritorious claims of other litigants, Appellant (Vernon Robinson, DOC #060180), is hereby prohibited from filing any additional pro se appeals or petitions in this court relating to his 1982 case, Duval County Case No. 82-378CF. See *State v. Spencer*, 751 So. 2d 47 (Fla. 1999). The clerk shall not accept any filings from Appellant related to that lower tribunal case unless they are signed by a member in good standing of the Florida Bar. Additionally, the clerk is directed to send a certified copy of this order to the appropriate institution within the Department of Corrections for potential disciplinary action against Appellant pursuant to section 944.279, Florida Statutes. Finally, Appellant is cautioned that any filings in violation of this order will result in the imposition of additional sanctions. See Fla. R. App. P. 9.410(a).

I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.
Served:

Hon. Pamela Jo Bondi, AG
Vernon Robinson
am

Jason W. Rodriguez, AAG
Hon. Ronnie Fussell, Clerk

Kristina Samuels
KRISTINA SAMUELS, CLERK



EX (AJ)

Appendix – B

Appendix - B

153#

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

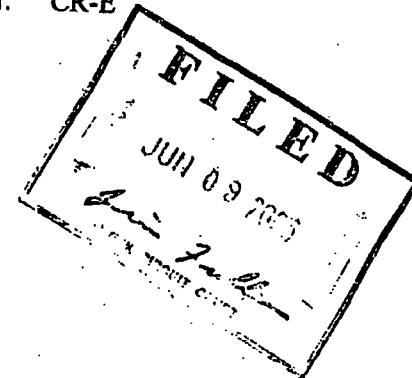
CASE NO.: 16-1982-CF-00378-AXXX-MA

DIVISION: CR-E

STATE OF FLORIDA,
Petitioner,

vs.

VERNON ROBINSON,
Defendant.



ORDER DENYING DEFENDANT'S MOTION TO CORRECT ILLEGAL SENTENCE

This matter came before this Court on Defendant's Motion to Correct Illegal Sentence filed pursuant to Florida Rule of Criminal Procedure 3.800 on December 31, 2003.

On May 7, 1982, pursuant to a written plea agreement with the State, Defendant was convicted of one count of Armed Robbery and was sentenced to a term of sixty (60) years of incarceration. (Exhibit "A.")

In the instant Motion, Defendant claims that his sentence is illegal because it exceeds the statutory maximum sentence. This Court finds that Defendant's claim is procedurally barred as an abuse of process, in that Defendant has previously filed a Motion pursuant to Florida Rule of Criminal Procedure 3.800, raising this same claim, and that motion was denied on its merits. (Exhibit "B.") Zeigler v. State, 632 So. 2d 48 (Fla. 1993); Foster v. State, 614 So. 2d 455 (Fla. 1992).

EX. (D)

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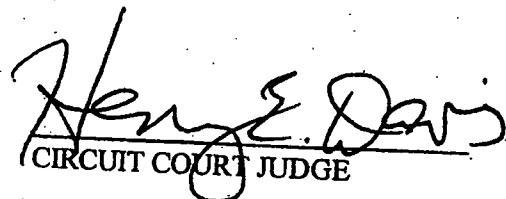
154#

Moreover, this Court notes that Defendant was sentenced pursuant to the specific terms of his plea agreement with the State, *not* pursuant to the sentencing guidelines. The plea agreement itself provided a valid basis for any departure from even the old sentencing guidelines. State v. Williams, 667 So. 2d 191 (Fla. 1996); Quarterman v. State, 527 So. 2d 1380 (Fla. 1988).

Based on the above, it is:

ORDERED AND ADJUDGED that Defendant's Motion to Correct Illegal Sentence is **DENIED**.

DONE AND ORDERED in Chambers, in Jacksonville, Duval County, Florida, on this
8th day of JUNE, 2005.


HENRY E. DAVIS
CIRCUIT COURT JUDGE

Copies to:

Office of the State Attorney
Division: CR-E

Vernon Robinson
D.O.C. #060180
Jackson Correctional Institution
5563 10th Street
Malone, Florida 32445

Case No.: 16-1982-CF-00378-AXXX-MA
Attachments: Exhibits A-B.

/glgbw

155#

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

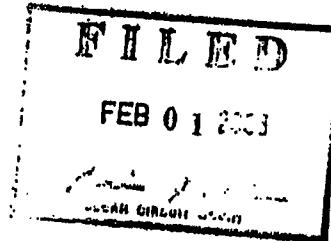
CASE NO.: 16-1982-CF-378-AXXX-MA

DIVISION: CR-E

STATE OF FLORIDA,
Petitioner,

vs.

VERNON ROBINSON,
Defendant.



ORDER DENYING THE DEFENDANT'S MOTION TO CORRECT ILLEGAL
SENTENCE / ALTERNATIVE PETITION FOR WRIT OF HABEAS CORPUS AND
MOTION FOR REHEARING

This matter came before this Court on the Defendant's "Leave to Amend" a Manifest Injustice Emergency Motion to Correct Illegal Sentence 3.800(A) / Alternative Petition for Writ of Habeas Corpus Fundamental Error Constitutionally Illegal Sentence," filed on June 4, 2007 and Motion for Rehearing filed on April 24, 2007.

On May 7, 1982, pursuant to a plea of guilty¹, the Defendant was convicted of Armed Robbery and was sentenced to a term of sixty (60) years of incarceration, to run concurrent with the Defendant's sentence in Case No. 16-1979-CF-5200-AXXX-MA. (Exhibit "A.") The Defendant did not take a direct appeal of his conviction and sentence.

In the instant Motion to Correct Illegal Sentence / Petition for Writ of Habeas Corpus, the Defendant alleges that his sentence of sixty years of incarceration was illegal since he was not

¹This Court notes that the Defendant's Plea Form is not in the case file. The Defendant's Judgment and Sentence, however, does clearly indicate that the Defendant entered a guilty plea to the offense of Armed Robbery.

Ex. (D)

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sentenced as a Youthful Offender. To the extent his argument is discernible, the Defendant appears to argue that since he was twenty (20) years of age at the time he committed his offense, and was previously classified as a youthful offender in his prior 1979 case, his sentence is illegal because he could only be sentenced within the sentencing range for a youthful offender. The Defendant, however, is misguided.

Initially, this Court notes that sentencing under the Youthful Offender Act is discretionary by the court. Bell v. State, 429 So. 2d 403 (Fla. 1st DCA 1983). Moreover, "a defendant previously classified as a youthful offender who is subsequently charged with substantive new offenses, and not with a mere violation of probation / community control, is not entitled to be sentenced as a youthful offender upon conviction of the new, substantive offenses." Boynton v. State, 896 So. 2d 898, 899 (Fla. 3d DCA 2005) (citing State v. Hicks, 545 So. 2d 952 (Fla. 3d DCA 1989)). In the instant case, the Defendant was not charged with violating his youthful offender probation or community control. The Defendant was charged via Information with the substantive new offense of Armed Robbery, which the Defendant pled guilty to committing. (Exhibits "B," "A.") Accordingly, the Defendant was properly sentenced as an adult to sixty (60) years of incarceration for the offense of Armed Robbery.

In his Motion for Rehearing, the Defendant requests that this Court reconsider its April 9, 2007 Order denying the Defendant's prior Petition for Writ of Habeas Corpus. After a review of the pleadings, however, this Court does not find any points of law or facts that were overlooked in deciding the Defendant's prior Petition.

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FILED 11 OCT 21 AM 1039 JIM FULLER

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

CASE NO.: 16-1982-CF-378-AXXX-MA
DIVISION: CR-E

STATE OF FLORIDA,

vs.

VERNON ROBINSON,
Defendant.

ORDER DENYING DEFENDANT'S MOTION TO CORRECT ILLEGAL SENTENCE

This matter came before the Court on the Defendant's "Motion to Correct Fundamentally Illegal Sentence Pursuant to Fla. Rule of Criminal P. 3.800(a)," filed on February 2, 2011.¹

On May 7, 1982, pursuant to a plea of guilty, the Defendant was convicted of Armed Robbery and was sentenced to a term of sixty years of incarceration. (Exhibit "A.") The Defendant did not file a direct appeal of his conviction and sentence.

The Defendant asserts that his sixty-year sentence is illegal because it is in excess of the statutory maximum. Specifically, the Defendant contends that his sixty-year sentence is illegal because he was sentenced as youthful offender. As this Court previously explained in its February 1, 2008, "Order Denying the Defendant's Motion to Correct Illegal Sentence / Alternative Petition for Writ of Habeas Corpus and Motion for Rehearing," the Defendant was not charged with violating his youthful offender community control stemming from his conviction in case number 16-1979-CF-

¹In support of this Motion, the Defendant also filed his "Addendum" on March 31, 2011, "Supplemental Authority" on April 19, 2011, and "Supplemental Authority" on June 14, 2011.

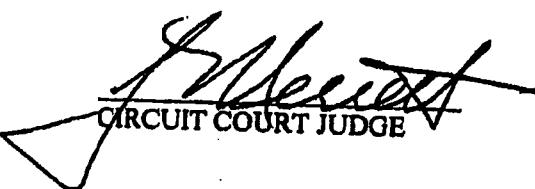
Ex. (D)

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In view of the above, it is:

ORDERED AND ADJUDGED that the Defendant's Motion to Correct Illegal Sentence / Alternative Petition for Writ of Habeas Corpus and Motion for Rehearing are **DENIED**. The Defendant shall have thirty (30) days from the date that this Order is filed to take an appeal, by filing Notice of Appeal with the Clerk of the Court.

DONE AND ORDERED in Chambers in Jacksonville, Duval County, Florida this 29th day of January, 2008.


CIRCUIT COURT JUDGE

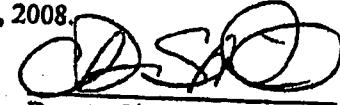
Copies to:

Office of the State Attorney
Division CR-E

Vernon Robinson
DOC# 060180
Baker Correctional Institution
P.O. Box 500
U.S. 90
Sanderson, Florida 32087-0500

CERTIFICATE OF SERVICE

I do hereby certify that a copy hereof has been furnished to counsel for Defendant by United States mail this 4th day of Feb, 2008.


Deputy Clerk

Case No.: 16-1982-CF-00378-AXXX-MA
Attachments: Exhibits A-B.

/sp

Ex. (D)

5200-AXXX-MA, but was instead charged with a new substantive offense of Armed Robbery.² (Exhibit "B.") Therefore, the Defendant was not sentenced as a youthful offender, or for a violation of his youthful offender community control, in the instant case. As such, the only consideration is whether the Defendant's sixty-year sentence for Armed Robbery is illegal for exceeding the maximum sentence allowable under section 812.13(2)(a), Florida Statutes.

Section 812.13(2)(a), Florida Statutes (1981), specifically authorizes punishment for a "term of years not exceeding life imprisonment" where the defendant carries a deadly weapon in the course of committing the robbery. The Defendant's sixty-year sentence is not a sentence exceeding life imprisonment, and therefore, is not an illegal sentence. See Green v. State, 630 So. 2d 1193 (Fla. 1st DCA 1994) (held that the defendant's sixty-year sentence imposed for a violation of section 812.13(2)(a), Florida Statutes, was not illegal); Robinson v. State, 642 So. 2d 644 (Fla. 4th DCA 1994).

Accordingly, it is:

ORDERED AND ADJUDGED that the Defendant's Motion to Correct Illegal Sentence is **DENIED**.

DONE AND ORDERED in Chambers, in Jacksonville, Duval County, Florida, on this
20 day of October, 2011.

Frank T. Bernale
CIRCUIT COURT JUDGE

²This Order was per curiam affirmed by the First District Court of Appeal on April 1, 2009. (Exhibit "C.")

EX-101

160#

Copies to:

Office of the State Attorney
Division CR-E

Vernon Robinson
D.O.C. #060180
Mayo Correctional Institution
8784 US Highway 27 West
Mayo, Florida 32066-3458

CERTIFICATE OF SERVICE

I do hereby certify that a copy hereof has been furnished to the Defendant by United States
mail this 20 day of October, 2011.

P. Watt
Deputy Clerk Jud. Asst.

Case No.: 16-1982-CF-378-AXXX-MA
Attachments: Exhibits A-C

/tw

EX- (D)

161#

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

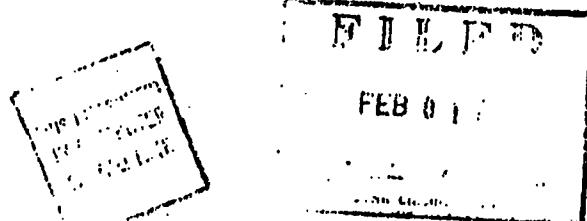
CASE NO.: 16-1982-CF-378-AXXX-MA

DIVISION: CR-E

STATE OF FLORIDA,
Petitioner,

vs.

VERNON ROBINSON,
Defendant.



**ORDER DENYING THE DEFENDANT'S MOTION TO CORRECT ILLEGAL
SENTENCE / ALTERNATIVE PETITION FOR WRIT OF HABEAS CORPUS AND
MOTION FOR REHEARING**

This matter came before this Court on the Defendant's "Leave to Amend" a Manifest Injustice Emergency Motion to Correct Illegal Sentence 3.800(A) / Alternative Petition for Writ of Habeas Corpus Fundamental Error Constitutionally Illegal Sentence," filed on June 4, 2007 and Motion for Rehearing filed on April 24, 2007.

On May 7, 1982, pursuant to a plea of guilty¹, the Defendant was convicted of Armed Robbery and was sentenced to a term of sixty (60) years of incarceration, to run concurrent with the Defendant's sentence in Case No. 16-1979-CF-5200-AXXX-MA. (Exhibit "A.") The Defendant did not take a direct appeal of his conviction and sentence.

In the instant Motion to Correct Illegal Sentence / Petition for Writ of Habeas Corpus, the Defendant alleges that his sentence of sixty years of incarceration was illegal since he was not

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EXHIBIT B

sentenced as a Youthful Offender. To the extent his argument is discernible, the Defendant appears to argue that since he was twenty (20) years of age at the time he committed his offense, and was previously classified as a youthful offender in his prior 1979 case, his sentence is illegal because he could only be sentenced within the sentencing range for a youthful offender. The Defendant, however, is misguided.

Initially, this Court notes that sentencing under the Youthful Offender Act is discretionary by the court. Bell v. State, 429 So. 2d 403 (Fla. 1st DCA 1983). Moreover, "a defendant previously classified as a youthful offender who is subsequently charged with substantive new offenses, and not with a mere violation of probation / community control, is not entitled to be sentenced as a youthful offender upon conviction of the new, substantive offenses." Boynton v. State, 896 So. 2d 898, 899 (Fla. 3d DCA 2005) (citing State v. Hicks, 545 So. 2d 952 (Fla. 3d DCA 1989)). In the instant case, the Defendant was not charged with violating his youthful offender probation or community control. The Defendant was charged via Information with the substantive new offense of Armed Robbery, which the Defendant pled guilty to committing. (Exhibits "B," "A.") Accordingly, the Defendant was properly sentenced as an adult to sixty (60) years of incarceration for the offense of Armed Robbery.

In his Motion for Rehearing, the Defendant requests that this Court reconsider its April 9, 2007 Order denying the Defendant's prior Petition for Writ of Habeas Corpus. After a review of the pleadings, however, this Court does not find any points of law or facts that were overlooked in deciding the Defendant's prior Petition.

Ex. (D)

163th

In view of the above, it is:

ORDERED AND ADJUDGED that the Defendant's Motion to Correct Illegal Sentence / Alternative Petition for Writ of Habeas Corpus and Motion for Rehearing are **DENIED**. The Defendant shall have thirty (30) days from the date that this Order is filed to take an appeal, by filing Notice of Appeal with the Clerk of the Court.

DONE AND ORDERED in Chambers in Jacksonville, Duval County, Florida this 29th day of January, 2008.

Copies to:

Office of the State Attorney
Division CR-E

Vernon Robinson
DOC# 060180
Baker Correctional Institution
P.O. Box 500
U.S. 90
Sanderson, Florida 32087-0500

J. Meek
CIRCUIT COURT JUDGE

CERTIFICATE OF SERVICE

I do hereby certify that a copy hereof has been furnished to counsel for Defendant by United States mail this 4th day of Feb, 2008.

D. S. D.
Deputy Clerk

Case No.: 16-1982-CF-00378-AXXX-MA
Attachments: Exhibits A-B.

/sp

EX-101

122

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In The Circuit Court
the Fourth Judicial Circuit of Florida
in and for
the County of Duval, State of Florida
during Term, 1979
STATE OF FLORIDA
vs

ROY ROBINSON

THE NAME OF AND BY AUTHORITY OF THE STATE OF FLORIDA.
ED AUSTIN, State Attorney for the Fourth Judicial Circuit of the State of Florida, in and for Duval County charges that LEROY ROBINSON on the 8th day of April, 1979, in the County of Duval and the State of Florida, did carry a firearm, to-wit: pistol, and did unlawfully by force, violence, assault, or putting fear, take money or other property, to-wit: money, the property Pizza Hut, as owner or custodian, from the person or custody of Roxanne Allen, and during the course of committing or attempting to commit the aforementioned robbery the said Leroy Robinson had in his possession a firearm or destructive device, to-wit: a pistol, contrary to the provisions of Sections 812.13 and 775.087, Florida Statutes.

STATE OF FLORIDA
COUNTY OF DUVAL
Personally appeared before me,
MARY YOUNG COUSAR /FRANK J. TASSONE,
Assistant State Attorney, for the Fourth Judicial Circuit of the State of Florida, in and for Duval County, who being first duly sworn, says that the allegations as set forth in the foregoing information are based upon facts that have been sworn to be true, and which, if true, would constitute the offense charged, and that this prosecution is instituted in good faith and hereby certifies that testimony under oath has been received from a material witness(es) for the offense. Sworn to, and subscribed before me this 13th day of April, 1979
Signature: Frank J. Tassone
Notary Public

ED AUSTIN, STATE ATTORNEY
FOURTH JUDICIAL CIRCUIT OF FLORIDA
IN AND FOR DUVAL COUNTY

By Frank J. Tassone
Assistant State Attorney

S. MORGAN SLAUGHTER, Clerk of the Circuit Court, Fourth Judicial Circuit of Florida, in and for Duval County, and Clerk of the County Court, Duval County, Florida.

FILED THIS AUG 13 1979

BY DEPUTY CLERK M. W. Clegg
79-17108-3 Dkt AD B/14/79
Cap. No Bnd. None

EX-103

133 #

15

STATE OF FLORIDA
 UNIFORM COMMITMENT TO CUSTODY
 OF DIVISION OF CORRECTIONS
 FOURTH JUDICIAL CIRCUIT COURT
 DUVAL COUNTY

Conviction for ARMED ROBBERY SPRING Term, 19 79
 Date of conviction SEPTEMBER 7th, 1979 (Offense)
 Date of sentence imposed SEPTEMBER 7th, 1979
 Term of sentence 5 years, 4 years imprisonment of which 1 year is mandatory, then placed in a
Community Control Program for 2 years, with credit for 34 days jail time.
 STATE OF FLORIDA,

vs.
LEROY ROBINSON

Plaintiff,
 CASE NO. 79-5200-CF
 OFFENDER NO. 79-17108-3
 Defendant.

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA, TO THE SHERIFF OF SAID
 COUNTY AND THE DIVISION OF CORRECTIONS OF SAID STATE, GREETING:

The above named defendant having been duly charged with the above named offense in the above styled Court, and
 having been duly convicted and adjudged guilty of and sentenced for said offense by said Court, as appears from the
 attached certified copies of

INFORMATION (Indictment) (Information)

Agreement and sentence, which are hereby made parts hereof:

Now, therefore, this is to command you, the said Sheriff, to take and keep and, within a reasonable time after
 receiving this commitment, safely deliver the said defendant into the custody of the Division of Corrections of the State
 of Florida; and this is to command you, the said Division of Corrections, by and through your director, superintendents,
 wardens, and other officials, to keep and safely imprison the said defendant for the term of said sentence in the
 institution in the state correctional system to which you, the said Division of Corrections, may cause the said defendant
 to be conveyed or thereafter transferred. And these presents shall be your authority for the same. Herein fail not.

WITNESS the Honorable FELIX T. GOMEZ, JR.
 Judge of said Court, as also S. MORGAN SLAUGHTER,
 Clerk, and the Seal thereof, this the 7th day of SEPTEMBER, 19 79.

S. MORGAN SLAUGHTER, CLERK

By: [Signature]

Deputy Clerk

RECEIVED
 DEPT. OF PROBATION AND
 PAROLE
 TALLAHASSEE, FLA.
 APR 7 1985

EX-10