

Appendix A

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D17-1978

DARNELL PERKINS WASHINGTON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Duval County.
Angela M. Cox, Judge.

May 19, 2020

ON REMAND FROM FLORIDA SUPREME COURT

RAY, C.J.

We reconsider on remand our prior opinion in this case, which the Florida Supreme Court quashed following its decision in *Love v. State*, 286 So. 3d 177 (Fla. 2019). We now affirm in all respects and write only to address the sole issue presented on remand.

In 2014, Darnell Perkins Washington was charged with attempted second-degree murder, following a shooting that took place during an altercation with his mother's boyfriend. Washington claimed that he acted in self-defense and moved to dismiss the charge under Florida's Stand-Your-Ground law, section 776.032, Florida Statutes. The trial court denied the

motion, concluding that Washington failed to meet his burden of proving that he was entitled to immunity from prosecution. The case went to trial, and Washington was convicted of the lesser crime of aggravated assault with a firearm.

Washington argued on appeal that he is entitled to a new Stand-Your-Ground immunity hearing based on an intervening change in the law. At the time of Washington's immunity hearing, Florida case law interpreting section 776.032 required that Washington prove entitlement to immunity by a preponderance of the evidence. *See Bretherick v. State*, 170 So. 3d 766, 775 (Fla. 2015). While this appeal was pending, the Florida Legislature amended section 776.032 to change both the burden and quantum of proof required for establishing entitlement to immunity. *See* Ch. 2017-72, §§ 1–2, Laws of Fla. Now, once a defendant makes a prima facie claim of immunity, the State must prove by clear and convincing evidence that the defendant is not entitled to immunity. § 776.032(4), Fla. Stat. (2017).

We previously granted Washington relief based on our precedent holding that the 2017 amendment to section 776.032 is procedural in nature and retroactive in application to pending cases, including those on appeal. *See, e.g., Commander v. State*, 246 So. 3d 1303 (Fla. 1st DCA 2018).

Based on *Love*, we now conclude that Washington is not entitled to a new immunity hearing. In *Love*, the supreme court agreed that the amended statute is a procedural change in the law but clarified that the new procedure “applies to all Stand Your Ground immunity hearings *conducted on or after the statute’s effective date*.” 286 So. 3d at 190 (emphasis added). Because Washington’s immunity hearing occurred before the amended statute’s effective date, the trial court was correct to conduct the hearing under the standard announced in *Bretherick*.

AFFIRMED.

KELSEY and JAY, JJ., concur.

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

Andy Thomas, Public Defender, and Danielle Jorden, Assistant
Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Steven Edward Woods,
Assistant Attorney General, Tallahassee, for Appellee.

Appendix B

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

**CASE NO.: 16-2014-CF-7403-AXXX-MA
DIVISION: CR-C**

STATE OF FLORIDA

vs.

**DARNELL PERKINS WASHINGTON,
Defendant.**

Giglio

**ORDER DENYING MOTION TO CORRECT SENTENCING ERROR UNDER RULE
3.800(b)(2), FLORIDA RULES OF CRIMINAL PROCEDURE**

This matter came before this Court on Defendant's Motion to Correct Sentencing Error Under Rule 3.800(b)(2), Florida Rules of Criminal Procedure, filed January 16, 2018. The Motion, having been filed before Defendant's Initial Brief on appeal, is timely.

After having been found guilty by a jury of aggravated assault with a deadly weapon, a lesser included offense, this Court sentenced Defendant on April 13, 2017 to a term of 20 years, with a 20-year firearm minimum mandatory term. (Ex. "A.")

In the instant Motion, Defendant raises two grounds for relief. He asserts as his first ground that this Court erred in imposing a discretionary fee of \$100 for a Sheriff's Office Investigative Cost because it was not requested by the appropriate agency, nor was the amount of costs demonstrated.

When assessing the imposition of costs, the version of the statute in effect at the time of the offense governs. Lee v. State, 677 So. 2d 41, 43 (Fla. 1st DCA 1996). Defendant committed the instant offense on December 27, 2013. (Ex. "B.") Section 938.27, Florida Statutes (2013), governs judgment for costs of convictions, and states that in all criminal cases:

convicted persons are liable for payment of the costs of prosecution, including investigative costs incurred by law enforcement agencies . . . if requested by such agencies. The court shall include these costs in every judgment rendered against the convicted person. . . . The court shall impose the costs of prosecution and investigation notwithstanding the defendant's present ability to pay.

§ 938.27(1)-(2)(a), Fla. Stat. (2013). Accordingly, for a law enforcement agency to assess investigative costs against a convicted defendant, the agency must request such costs. Ogden v. State, 117 So. 3d 479, 480 (Fla. 1st DCA 2013); DeSalvo v. State, 107 So. 3d 1185, 1186 n.2 (Fla. 1st DCA 2013)(stating trial court correctly found investigative costs were erroneously imposed pursuant to section 938.27 "because there was no evidence that the costs had been requested by the State"). While a 2008 amendment to section 938.27(1) no longer requires documentation of such costs, they must still "be requested on the record and subjected to argument regarding the amount" Hills v. State, 90 So. 3d 927, 928 (Fla. 1st DCA 2012); Ch. 2008-111, § 44, at 37, Laws of Fla.

At sentencing, the State requested, and this Court orally imposed, the cost of investigation. (Ex. "C" at 7.) In addition, this Court informed Defendant of his right to a hearing to contest the fees being imposed, and Defendant confirmed that he understood. (Ex. "C" at 8.) Therefore, this Court finds Defendant's first ground to be without merit.

As his second ground, Defendant asserts that this Court erroneously applied the sentencing statute in effect at the time of commission of the offense, rather than the version in effect at the time of sentencing, to impose a minimum mandatory term. Defendant acknowledges that Wright v. State, 225 So. 3d 914 (Fla. 1st DCA 2017) is contrary authority.

Therefore, it is

ORDERED that Defendant's Motion to Correct Sentencing Error Under Rule 3.800(b)(2), Florida Rules of Criminal Procedure is hereby **DENIED**.

DONE AND ORDERED in Chambers at Jacksonville, Duval County, Florida this

_____ day of March, 2018.

ORDER ENTERED

MAR 05 2018

/s/ ANGELA M. COX

ANGELA COX, Circuit Judge

Copies furnished to:

Whitney R. Lonker, Esquire
207 N. Washington Street
Jacksonville, FL 32202

Darnell Perkins Washington
D.O.C. # J58686
Holmes Correctional Institution
3142 Thomas Drive
Bonifay, FL 32425-0190

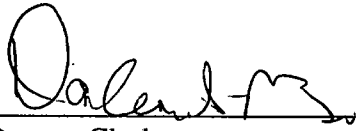
Danielle Jorden, Esquire
Assistant Public Defender
301 South Monroe Street, Suite 401
Tallahassee, FL 32301
danielle.jorden@flpd2.com

Trisha Meggs Pate, Esquire
Office of the Attorney General
The Capitol PL-01
Tallahassee, FL 32399-1050
crimapptlh@myfloridalegal.com

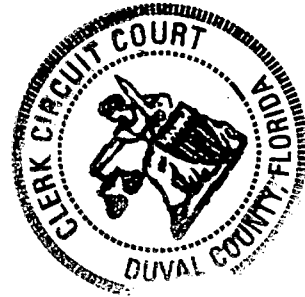
Office of the State Attorney
Division CR-C

CERTIFICATE OF SERVICE

I do certify that a copy hereof has been furnished to the Defendant and his trial counsel
by United States mail this 7th day of March, 2018.


Deputy Clerk.

Case No.: 16-2014-CF-7403-AXXX-MA
Attachments: Exhibits A-C
/bw



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

CASE NUMBER: 16-2014-CF-007403-AXXX-MA
DIVISION: CR-C (Circuit)

STATE OF FLORIDA

vs.

DARNELL PERKINS WASHINGTON, DEFENDANT

- ☐ Probation Violator
☐ Community Control Violator
☐ Retrial
☐ Resentence

JUDGMENT

The defendant, **DARNELL PERKINS WASHINGTON**, being personally before this Court, represented by Dr. W. Lonke, Apptd., the attorney of record, and the State being represented by A. Young for C. French, and having:

- ☒ been tried and found guilty by jury/court of the following crime(s)
☐ entered a plea of guilty to the following crime(s)
☐ entered a plea of nolo contendere to the following crime(s)

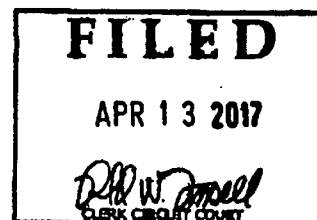
Count	Crime	Offense Statute Number(s)	Degree Of Crime
1	Aggravated Assault-Deadly Weapon, a Lesser Included offense	784.02(1)(a) 78.087(2)(a)(2)	3 rd F

☒ and no cause being shown why the defendant should not be adjudicated guilty; IT IS ORDERED that the defendant is hereby ADJUDICATED GUILTY of the above crime(s).

☐ being a qualified offender pursuant to F.S. 943.325, the defendant shall be required to submit a DNA sample as required by law.

☐ and good cause being shown; IT IS ORDERED THAT ADJUDICATION OF GUILT BE WITHHELD.

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STATE OF FLORIDA

vs.

DARNELL PERKINS WASHINGTON, DEFENDANT

CASE NUMBER: 16-2014-CF-007403-AXXX-MA

FINGERPRINTS OF DEFENDANT				
1. Right Thumb	2. Right Index	3. Right Middle	4. Right Ring	5. Right Little
				
6. Left Thumb	7. Left Index	8. Left Middle	9. Left Ring	10. Left Little
				

Fingerprints taken by: Name:

PRM 5194

Title:

Police Bailiff

I HEREBY CERTIFY that the above and foregoing are the fingerprints of the defendant, **DARNELL PERKINS WASHINGTON**, and that they were placed thereon by the defendant in my presence in open court on this date.

DONE AND ORDERED in open court in Jacksonville, Duval County, Florida, this 13 day of APRIL, 20 17.


 Judge

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STATE OF FLORIDA

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

vs.

DARNELL PERKINS WASHINGTON, DEFENDANT

CASE NUMBER: 16-2014-CF-007403-AXXX-MA
DIVISION: CR-C**COURT ORDERED COSTS/FINES/FEEES**

The defendant is hereby ordered to pay the following sums if checked:

- ☒ A sum of \$3.00 as a court cost pursuant to section 938.01, Florida Statutes, (Additional Court Cost Clearing Trust Fund).
- ☒ A sum of \$50.00 pursuant to section 938.03, Florida Statutes, (Crimes Compensation Trust Fund).
- ☒ A sum of \$225.00 pursuant to section 938.05, Florida Statutes, (Local Government Criminal Justice Trust Fund).
- ☒ A sum of \$3.00 pursuant to section 938.19, Florida Statutes, and section 634.108, Ordinance Code, (Assessment of Additional Court Costs-Duval County Teen Court Trust Fund).
- ☒ A sum of \$65.00 pursuant to section 939.185, Florida Statutes, and section 111.385, Ordinance Code, (Assessment of Additional Court Costs to be used for innovations, legal aid, law library, teen court programs).
- ☐ A sum of \$100.00 pursuant to section 938.055, Florida Statutes, (FDLE Operating Trust Fund).
- ☒ A sum of \$100.00 pursuant to section 938.27(1), Florida Statutes, (Sheriff's Office Investigative Cost).
- ☐ A sum of \$ _____ pursuant to section 938.27(1), Florida Statutes, (Prosecution Investigative Cost).
- ☒ A sum of \$100.00 pursuant to section 938.27(8), Florida Statutes, (Cost of Prosecution).
- ☒ A sum of \$20.00 pursuant to section 938.06, Florida Statutes, (Assessment of Additional Court Costs for Crime Stoppers Trust Fund).
- ☒ A sum of \$ 100.00 pursuant to section 938.29, Florida Statutes, (Court Appointed Counsel Fees).
- ☒ A sum of \$ 30.00 pursuant to section 27.52, Florida Statutes, (Application for Court Appointed Counsel Fees).
- ☐ A sum of \$151.00 pursuant to section 938.10, Florida Statutes, (Crimes Against Minors).
- ☒ A sum of \$201.00 pursuant to section 938.08, Florida Statutes, (Funding Programs in Domestic Violence).
- ☒ A sum of \$151.00 pursuant to section 938.085, Florida Statutes, (Rape Crisis Trust Fund).
- ☒ A sum of \$50.00 pursuant to section 775.083(2), Florida Statutes, (Cost).
- ☐ A fine in the sum of \$ _____ pursuant to section 775.0835, Florida Statutes, (This provision refers to the optional fine for the Crimes Compensation Trust Fund and is not applicable unless checked and completed. Fines imposed as a part of a sentence to section 775.083, Florida Statutes, are to be recorded on the sentence page(s)).
- ☐ A sum of \$ _____ pursuant to section 938.04, Florida Statutes, (additional cost 5% of fine).
- ☐ A sum of \$2.00 as a court cost pursuant to section 938.15, Florida Statutes, (Criminal Justice Education by Municipalities and Counties).
- ☐ A sum of \$15.00 pursuant to section 938.13, Florida Statutes, (Misd. convictions involving drugs or alcohol).
- ☐ A sum of \$135.00 pursuant to section 938.07, Florida Statutes, (EMS - DUI/BUI cases).
- ☐ A sum of \$30.00 pursuant to section 318.18(13), Florida Statutes, and section 634.102, Ordinance Code, (CHT - State Court Facilities).
- ☐ A sum of \$3.00 pursuant to section 318.18(17), Florida Statutes, (State Radio System (SRS)).
- ☐ A sum of \$ _____ for the cost of collecting the DNA sample required by section 943.325, Florida Statutes.
- ☐ Restitution in accordance with attached order.
- ☐ Other _____

DONE AND ORDERED in open court in Jacksonville, Duval County, Florida, this _____ day of

APR 13 2017

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Page

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Judge

Angela M. Culp

DARNELL PERKINS WASHINGTON, DEFENDANT

CASE NUMBER: 16-2014-CF-007403-AXXX-MA

OBTS # 1603098972

SENTENCE(As to Count (s) 1)

The defendant, being personally before this court, accompanied by the defendant's attorney of record W. Lonker - Apptd, and the adjudication/withhold having been determined, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown:

- ☒ and the court having on 12/16/16 deferred imposition of sentence until this date.
☐ and the court having previously entered a judgment in this case on _____ now resents the defendant.
☐ and the court having placed the defendant on probation/community control, and having subsequently revoked the defendant's probation/community control;

It is The Sentence Of The Court That (check all that are applicable; unmarked sections are inapplicable):

- ☒ The defendant pay a fine of \$ 100.00, pursuant to section 775.083, Florida Statutes plus \$ 5.00 at the 5% surcharge required by section 938.04, Florida Statutes.
☒ The defendant is hereby committed to the custody of the Department of Corrections.
☐ The defendant is hereby committed to the custody of the Sheriff of Duval County, Florida.
☐ The defendant is sentenced as a Youthful Offender in accordance with section 958.04, Florida Statutes.

To be Imprisoned (check one; unmarked sections are inapplicable):

- ☐ For a term of natural life.
☒ For a term of 20 years
☐ Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

☐ Youthful Offender Sentence:

Pursuant to the Florida Youthful Offender Act, the defendant shall be imprisoned for a period of _____ of which _____ shall be served by imprisonment followed by _____ in a Community Control Program according to the terms and conditions set forth in a separate order.

☐ Split Sentence (complete the appropriate paragraph):

- ☐ Followed by a period of _____ on probation/community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order.
☐ However, after serving a period of _____ imprisonment in _____, the balance of the sentence shall be suspended and the defendant shall be placed on probation/community control for a period of _____ under the supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order.

In the event the defendant is ordered to serve additional split sentences, all incarceration portions shall be satisfied before the defendant begins service of the supervision terms.

Imposition of Sentence Stayed and Withheld (check one; unmarked sections are inapplicable):

- ☐ The court hereby stays and withholds the imposition of sentence and places the defendant on:
☐ Probation/community control for a period of _____ under the supervision of the Department of Corrections with a special condition that the defendant serve _____ in Duval County Jail, with credit for _____ days.
☐ Unsupervised probation for a period of _____ with the special condition that the defendant serve _____ days in Duval County Jail, with credit for _____ days. Unsupervised probation will terminate upon completion of special condition.

(All other general/special conditions of probation/community control shall be set forth in a separate order.)

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DARNELL PERKINS WASHINGTON, DEFENDANT

CASE NUMBER: 16-2014-CF-007403-AXXX-MA
OBTS # 1603098972**OTHER PROVISIONS**(As to Count(s) 1)**Current Jail
Credit Time:**☒ It is further ordered that the defendant shall be allowed a total of 982 days as credit for time incarcerated on this case / count before imposition of this sentence.**Credit for Time Served
on Violation of Probation /
Community Control:**

(check one)

☐ It is further ordered that the defendant shall be allowed _____ days time served between date of arrest as a violator following release from prison to the date of resentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served only pursuant to section 921.0017, Florida Statutes, on count(s) _____. (Offenses committed on or after January 1, 1994.)☐ It is further ordered that the defendant be allowed _____ days time served between date of arrest as a violator following release from prison to the date of resentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served and unforfeited gain time previously awarded on count(s) _____. (Offenses committed before October 1, 1989.)☐ It is further ordered that the defendant be allowed _____ days time served between date of arrest as a violator following release from prison to the date of resentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served on count(s) _____. (Offenses committed between October 1, 1989, and December 31, 1993.)**Prior Prison Credit:**☐ It is further ordered that the defendant shall be allowed _____ days' time served between date of the original sentence being vacated to the date of resentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served on count(s) _____.**Forfeiture of Prior
Gain/Good Time:**

(check one)

☐ The court deems the unforfeited gain time previously awarded on the above count(s) forfeited under section 948.06(7)

OR

☐ The court allows unforfeited gain time previously awarded on the above count(s). (Gain time may be subject to forfeiture by the Department of Corrections under section 944.28(1))**Consecutive/
Concurrent As to
Other Counts:**

(if Applicable)

☐ It is further ordered that the sentence imposed for count(s) _____ shall run (check one)☐ consecutive to ☐ concurrent with the sentence set forth in count _____ of this case.**Consecutive/
Concurrent As To
Other Sentences:**

(if Applicable)

It is further ordered that the composite term of all sentences imposed for the counts specified in this order shall run (check one) ☐ consecutive to ☐ concurrent with the following: (check one)☐ any active sentence being served.☐ specific sentences: _____

_____**Retention of Jurisdiction:**☐ The court retains jurisdiction over the defendant pursuant to section 947.16(4), Florida Statutes.Page 5 of 7

DARNELL PERKINS WASHINGTON, DEFENDANT

CASE NUMBER: 16-2014-CF-007403-AXXX-MA

SPECIAL PROVISIONS(As To Count(s) 1)

By appropriate notation, the following provisions apply to the sentence imposed:

☒ **Firearm:** It is further ordered that the 20 year mandatory minimum imprisonment provisions of section 775.087(2)(a), Florida Statutes, is hereby imposed for the sentence specified in this count.

☐ **Drug Trafficking:** It is further ordered that the _____ mandatory minimum imprisonment provision and a fine of \$ _____, as set forth in section 893.135(1), Florida Statutes, is hereby imposed for the sentence specified in this count.

☐ **Controlled Substance Within 1,000 Feet of School:** It is further ordered that the 3-year mandatory minimum imprisonment provision of section 893.13(1)(c)1, Florida Statutes, is hereby imposed for the sentence specified in this count.

☐ **Habitual Felony Offender:** The defendant is adjudicated a habitual felony offender and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(a), Florida Statutes. The requisite findings by the court are set forth in a separate order or stated on the record in open court.

☐ **Habitual Violent Felony Offender:** The defendant is adjudicated a habitual violent felony offender and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(b), Florida Statutes. A mandatory minimum term of _____ year(s) must be served prior to release. The requisite findings of the court are set forth in a separate order or stated on the record in open court.

☐ **Violent Career Criminal:** The defendant is adjudicated a violent career criminal and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(d), Florida Statutes. A mandatory minimum term of _____ year(s) must be served prior to release. The requisite findings of the court are set forth in a separate order or stated on the record in open court.

☐ **Prison Releasee Reoffender:** The defendant is adjudicated a prison releasee reoffender in accordance with the provisions of section 775.082(9), and is sentenced to serve 100 percent of the maximum sentence provided by law for the offense of which the defendant has been convicted. A mandatory minimum term of _____ year(s) imposed as PRR in accordance with the provisions of this section.

☐ **Law Enforcement Protection Act:** It is further ordered that the defendant shall serve a minimum of _____ year(s) before release in accordance with section 775.0823, Florida Statutes (offenses committed before January 1, 1994).

☐ **Capital Offense (Excluding First Degree Murder and s. 790.161):** It is further ordered that the defendant shall serve no less than 25 years in accordance with the provisions of section 775.082(1), Florida Statutes (offenses committed before October 1, 1995).

☐ **Short-Barreled Rifle, Shotgun, Machine Gun:** It is further ordered that the 5-year mandatory minimum provisions of section 790.221(2), Florida Statutes, are hereby imposed for the sentence specified in this count (offenses committed before January 1, 1994).

☐ **Continuing Criminal Enterprise:** It is further ordered that the 25-year mandatory minimum sentence provisions of section 893.20, Florida Statutes, are hereby imposed for the sentence specified in this count (offenses committed before January 1, 1994).

☐ **DUI Manslaughter:** It is further ordered that the 4 year mandatory minimum sentence provision pursuant to section 316.193(3)(c)3, Florida Statutes, is hereby imposed for the sentence specified in this count.

☐ **Dangerous Sexual Felony Offender:** The defendant is adjudicated a dangerous sexual felony offender and has been sentenced to an extended term in accordance with the provisions of section 794.0115, Florida Statutes. A mandatory minimum term of _____ year(s) must be served. The requisite findings of the court are set forth in a separate order or stated on the record in open court.

☐ **Criminal Gang Activity:** The felony conviction is for an offense that was found, pursuant to section 874.04, Florida Statutes, to have been committed for the purpose of benefiting, promoting or furthering the interests of a criminal gang.

☐ **Sexual Offender:** The defendant is adjudicated a Sexual Offender in accordance with the provisions of section 943.0435(1)(a), Florida Statutes.

☐ **Sexual Predator:** The defendant is adjudicated a Sexual Predator in accordance with the provisions of section 775.21(4)(a), Florida Statutes.

☐ **Youthful Offender:** The defendant is adjudicated a Youthful Offender in accordance with the provisions of section 958.04(1)(a), Florida Statutes.

☐ **Taking a Law Enforcement Officer's Firearm:** It is further ordered that the 3-year mandatory minimum imprisonment provision of section 775.0875(1), Florida Statutes, is hereby imposed for the sentence specified in this count (offenses committed before January 1, 1994).

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DARNELL PERKINS WASHINGTON, DEFENDANT

CASE NUMBER:16-2014-CF-007403-AXXX-MA

OBTS # 1603098972

In the event the defendant is sentenced to a period of incarceration in state prison, the Sheriff of Duval County, Florida, is hereby ordered and directed to deliver the defendant to the Florida Department of Corrections at the facility designated by the Department together with a copy of this judgment and sentence and any other documents specified by Florida Statute.

In open court, the defendant was advised of the right to appeal from this sentence by filing a notice of appeal with the clerk of this court within 30 days from this date and the right to the assistance of counsel in taking the appeal at the expense of the State on showing of indigency.

In imposing the above sentence, the court further recommends / adjudges:

DONE AND ORDERED in open court in Jacksonville, Duval County, Florida, this 1 day of

1 APR 13 2017

20

Judge

Anglam Corp

S.A. CASE NO.: 14CF001996AD

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

STATE OF FLORIDA

Spring Term, in the year two thousand fourteen

vs.

CLERK NO.: 162014CF007403AXXXMA

DARNELL PERKINS WASHINGTON

DIVISION: CRC

INFORMATION FOR:

1) ATTEMPTED MURDER IN THE SECOND DEGREE

IN THE NAME OF AND BY AUTHORITY OF THE STATE OF FLORIDA, ANGELA B. COREY, State Attorney for the Fourth Judicial Circuit of the State of Florida, in and for Duval County, charges that:

COUNT 1

DARNELL PERKINS WASHINGTON on December 27, 2013, in the County of Duval and the State of Florida, did unlawfully and by an act imminently dangerous to another, and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual, attempt to kill Bernie Ross, a human being, by shooting at the said Bernie Ross, which created a well founded fear in Bernie Ross that violence was imminent and during the commission of the aforementioned Attempted Murder in the Second Degree the said DARNELL PERKINS WASHINGTON did actually possess and discharge a firearm and as a result of the discharge, great bodily harm was inflicted upon any person, contrary to the provisions of Sections 782.04(2), 775.087(2)(a)3 and 777.04(1), Florida Statutes.

ANGELA B. COREY, STATE ATTORNEY
FOURTH JUDICIAL CIRCUIT

By:

Assistant State Attorney
Fourth Judicial Circuit of Florida, In and for Duval County

STATE OF FLORIDA }
COUNTY OF DUVAL }

ALAN MIZRAHI BAR#122300

Personally appeared before me, ALAN MIZRAHI BAR#122300, Assistant State Attorney, for the Fourth Judicial Circuit of the State of Florida, in and for Duval County, who is personally known to me, and 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 as true, and which, if true, would constitute the offense therein charged, and that this prosecution is instituted in good faith, and hereby certifies that testimony under oath has been received from the material witness(es) for the offense.

Sworn to and subscribed before me this 14 day of August, 2014.

By:



RONNIE FUSSELL, Clerk of the Circuit Court, Fourth Judicial Circuit of Florida, In and For Duval County, and Clerk of the County Court, In and For Duval County, Florida.

FILED THIS

Sept 8,

BY DEPUTY CLERK:

Lore Devoe

Dkt 2014-021006
Ext. O
Race Black

AD August 27, 2014
S/W
Sex Male

DOB 12/07/1989

MCL NO.(S): S782.04(2), 775.087(2)(a)3, 777.04(1), F1

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

CASE NO.: 16-2014-CF-007403
DIVISION: CR-C

STATE OF FLORIDA

-vs-

DARNELL PERKINS WASHINGTON,

Defendant.

STATE OF FLORIDA)
COUNTY OF DUVAL)

COURT PROCEEDINGS held before the Honorable
Angela M. Cox, Circuit Court Judge in the above
entitled action, held on April 13, 2017, at
9:30 a.m., at the Duval County Courthouse, 501 West
Adams Street, Courtroom Number 505, and taken down
stenographically by Ashley Whitehair, FPR,
Certified Court Reporter, and Notary Public, in
and for the State of Florida at Large.

Ashley Whitehair
Official Reporters, Inc.
421 West Church Street, Suite 701
Jacksonville, Florida 32202
(904) 358-2090

Official Reporters, Inc.

ACCEPTED: DUVAL COUNTY, RONNIE FUSSELL, CLERK, 06/12/2017 01:08:30 PM

A P P E A R A N C E S

ASHLEY YOUNG, Esquire

MEREDITH CHARBULA, Esquire

Assistant State Attorneys

Office of the State Attorney

Ed Austin Building

311 West Monroe Street

Jacksonville, Florida 32202

Attorneys on behalf of the State of Florida.

WHITNEY LONKER, Esquire

At the Law Office of

Lonker Law Group, PLLC

207 North Washington Street

Jacksonville, Florida 32202

Attorney on behalf of the Defendant.

ALSO PRESENT:

Darnell Perkins Washington, the Defendant.

Official Reporters, Inc.

I-N-D-E-X

Page No.

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CERTIFICATE OF REPORTER.....11

Official Reporters, Inc.

EXHIBITS

Page No.

Court

(None Entered/Admitted.)

State

(None Entered/Admitted.)

Defense

(None Entered/Admitted.)

Official Reporters, Inc.

1 April 13, 2017

10:48 a.m.

2 P R O C E E D I N G S

3 * * * * *

4 THE COURT: You can go ahead and put
5 Mr. Washington in the chute, please -- whose
6 case is that? That's Ms. French's case?

7 MS. LONKER: Yes, Your Honor.

8 THE COURT: Oh, never mind. We can
9 wait for Ms. French to get here. Unless
10 somebody's covering for her? Is anybody
11 covering for Ms. French?

12 MS. MATTINA: Your Honor, I think she's
13 in trial.

14 MS. LONKER: Is Ashley Young covering
15 for her?

16 THE COURT: Oh, Ashley Young has been
17 sending emails.

18 MS. MATTINA: Yes, ma'am, Your Honor.
19 I didn't know.

20 THE COURT: I will wait for her to get
21 here.

22 (Case temporarily passed.)

23 THE COURT: All right. Are we ready on
24 Mr. Washington? I see Ms. Young is here.

25 MS. YOUNG: Yes, Your Honor.

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1 THE COURT: May I have Mr. Washington,
2 please.

3 (Defendant enters the courtroom.)

4 THE COURT: Okay. Good morning,
5 Mr. Washington, and Ms. Lonker, and
6 Ms. Young.

7 MS. YOUNG: Good morning, Your Honor.

8 MS. LONKER: Good morning.

9 THE COURT: And is Ms. Charbula here on
10 this case?

11 MS. YOUNG: She is, Your Honor.

12 THE COURT: Okay.

13 I've had an opportunity to review the
14 cases that were provided, as well as the
15 memorandum of law that was file by
16 Mr. Washington, and adopted by the defense.

17 And is there anything additional from
18 the State before we proceed, that you want to
19 put on the record?

20 MS. YOUNG: Not at this time, Your
21 Honor.

22 THE COURT: From the defense?

23 MS. LONKER: Not at this time, Your
24 Honor.

25 THE COURT: Mr. Washington, I've

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1 reviewed the law as it pertains to your case.
 2 I'm going to adjudicate you guilty, and as
 3 required by law, sentence you to 20 years,
 4 Florida State Prison.

5 Is his credit time, is it still
 6 954 days?

7 THE CLERK: No, Judge, it's 982 days.

8 THE COURT: With credit for 982 days in
 9 jail.

10 That is a minimum mandatory sentence,
 11 so it is day for day.

12 I will impose the \$100.00 dollar fine
 13 plus court costs. The total is \$521.00
 14 dollars. A \$150.00 fee for the prior
 15 representation by the public defender.

16 Is the State requesting the cost of
 17 prosecution and cost of investigation?

18 MS. YOUNG: Yes, Your Honor.

19 THE COURT: \$100.00 dollar cost of
 20 prosecution. \$100.00 dollar cost of
 21 investigation. The \$201.00 dollar domestic
 22 violence surcharge. And the \$151.00 dollar
 23 rape crisis fund surcharge.

24 Do you understand the sentence that has
 25 been imposed?

1 THE DEFENDANT: Yes.

2 THE COURT: I didn't hear you?

3 THE DEFENDANT: Yes.

4 THE COURT: You have a right to a
5 hearing to contest the fees being imposed in
6 your case.

7 Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: You have a right to appeal
10 your sentence. I encourage you to do so.

11 As I told you before, there was not a
12 lot of guidance as it relates to the
13 aggravated assault charge; however, there was
14 guidance as it relates to other changes in
15 law that have taken place, and the law
16 indicates that this sentence has to be
17 imposed.

18 You appealing this sentence gives the
19 Court an opportunity to hear from the
20 appellate court, so that we can know what
21 we're supposed to do in cases like this, and
22 whether the minimum mandatory should be
23 imposed, as I have done, or whether or not it
24 should not be imposed, and then you'll come
25 back for re-sentencing, if the appellate

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1 court makes that decision.

2 And, as I told you, I follow the law.
3 It is not my job to say what the law should
4 be, but to say what the law is.

5 So your sentence has been imposed. You
6 have 30 days to appeal.

7 Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: If you can't afford a
10 lawyer, one will be appointed to represent
11 you. Good luck to you.

12 Anything else from the State?

13 MS. YOUNG: No, Your Honor.

14 THE COURT: From the defense?

15 MS. LONKER: No, Your Honor.

16 THE COURT: Thank you, Ms. Young, for
17 standing in for Ms. French.

18 MS. YOUNG: Yes, Your Honor.

19 THE CLERK: Judge, is that on Count 1
20 and 2?

21 THE COURT: Count 1.

22 State, what's the announcement as to
23 Count 2?

24 MS. YOUNG: Your Honor, at this time I
25 believe the announcement as to Count 2 would

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1 be a Nol-Pros Code 30.

2 THE COURT: The State has dropped the
3 tampering with evidence charge.

4 Thank you.

5 MS. YOUNG: And, Your Honor, that does
6 conclude my business.

7 May I be excused?

8 THE COURT: Yes, thank you.

9 MS. YOUNG: Thank you, Your Honor.

10 * * * * *

11 (Whereupon, the proceedings for this
12 defendant were adjourned at 11:00 a.m.)
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C E R T I F I C A T E O F R E P O R T E R

STATE OF FLORIDA)
COUNTY OF DUVAL)

I, Ashley Whitehair, FPR, Certified Court Reporter, certify that I was authorized to and did personally stenographically report the foregoing proceedings on April 13, 2017, and that the transcript is a true and complete record of my stenographic notes.

/s/ Ashley Whitehair
Ashley Whitehair
Certified Court Reporter

Official Reporters, Inc.

Supreme Court of Florida

FRIDAY, FEBRUARY 28, 2020

CASE NO.: SC19-1244

Lower Tribunal No(s):

1D17-1978; 162014CF007403AXXXMA

STATE OF FLORIDA

vs. DARNELL PERKINS
WASHINGTON

Petitioner(s)

Respondent(s)

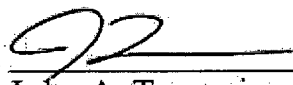
Upon review of the response(s) to this Court's Order to Show Cause dated January 8, 2020, the Court has determined that it should accept jurisdiction in this case. It is ordered that the Petition for Review is granted, that the First District Court of Appeal's decision in this case is quashed, and this matter is remanded to the district court for reconsideration upon application of our decision in *Love v. State*, 286 So. 3d 177 (Fla. 2019).

No Motion for Rehearing will be entertained by the Court.

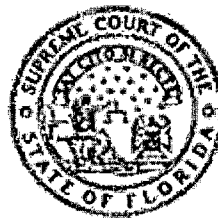
CANADY, C.J., and POLSTON, LABARGA, LAWSON, and MUÑIZ, JJ., concur.

A True Copy

Test:



John A. Tomasino
Clerk, Supreme Court



dl

Served:

STEVEN E. WOODS
DANIELLE JORDEN
HON. ANGELA M. COX, JUDGE
HON. KRISTINA SAMUELS, CLERK
HON. RONNIE FUSSELL, CLERK