

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

ROGER D. REAM,

Appellant,

v.

Case No. 5D21-902

STATE OF FLORIDA,

Appellee.

Decision filed August 24, 2021

3.800 Appeal from the Circuit Court
for Brevard County,
Stephen G. Henderson, Judge.

Roger D. Ream, Avon Park, pro se.

Ashley Moody, Attorney General,
Tallahassee, and Rebecca Rock
McGuigan, Assistant Attorney General,
Daytona Beach, for Appellee.

PER CURIAM.

AFFIRMED.

EDWARDS, EISNAUGLE and TRAVER, JJ., concur.

Appendix A

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

ROGER D. REAM,

Appellant,

v. CASE NO. 5D21-0902
LT CASE NO. 05-2018-CF-012297-AXXX-XX

STATE OF FLORIDA,

Appellee.

_____ /

DATE: September 30, 2021

BY ORDER OF THE COURT:

ORDERED that Appellant's "Motion for Rehearing and Motion for
Written Opinion," filed September 13, 2021 (mailbox date), is denied.

*I hereby certify that the foregoing is
(a true copy of) the original Court order.*

Sandra B. Williams

SANDRA B. WILLIAMS, CLERK



Panel: Judges Edwards, Eisnagle and Traver

cc:

Office of the Attorney
General

Rebecca Rock
McGuigan

Roger Darrell Ream

Appendix B

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY,
FLORIDA.

CASE NO. 05-2018-CF-12297-AXXX-XX

STATE OF FLORIDA,
Plaintiff,

v.

ROGER D. REAM,
Defendant.

ORDER DENYING DEFENDANT'S MOTION TO CORRECT SENTENCE

THIS CAUSE came before the Court upon the Defendant's Motion to Correct Sentence, filed on January 26, 2021. Based upon a review of the Defendant's Motion and the official Court file, and being otherwise fully advised in the premises, the Court makes the following findings of fact and conclusions of law:

a. On February 13, 2019, the Defendant was sentenced to 60 months in the custody of the Department of Corrections for Count 1, Possession of Material Depicting Sexual Conduct by a Child, followed by 5 years probation for Count 2, Possession of Material Depicting Sexual Conduct by a Child. (See Exhibit "A", Judgment).

b. The Defendant claims that the Court imposed a condition of probation that is unconstitutional under Packingham v. North Carolina, 137 S. Ct. 1730 (2017). The condition states:

30. (29) Effective for an offender whose crime was committed on or after July 1, 2005, and who are placed on supervision for violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, a prohibition on accessing the Internet or other computer services until the offender's sex offender treatment program, after a risk assessment is completed, approves and implements a safety plan for the offender's accessing or using the Internet or other computer services

(See Exhibit "A"). In Packingham, the Supreme Court of the United States held that a North Carolina statute which prohibited sex offenders from using social medial websites was overbroad and

Appendix C

violated the First Amendment. Id. at 1737. The North Carolina statute made it a felony for a registered sex offender to access social media websites that allow minors to become members or maintain person web pages. The Defendant claims that under Packingham, section 948.30(1)(h), Florida Statutes, which authorizes condition 30, is unconstitutional.

c. In Alford v. State, 279 So. 3d 752 (Fla. 2d DCA 2019), Alford raised the same claim on direct appeal that the Defendant raises here. The court distinguished the North Carolina statute struck down in Packingham from section 948.30(1)(h), Florida Statutes. The Court pointed out that the North Carolina statute created a felony which placed restrictions on sex offenders who had already completed their sentences and were no longer subject to supervision while the restrictions under section 948.30(1)(h) are conditions of a probationary sentence. Id. at 754. The Court held that the condition authorized under section 948.30(1)(h) is not unconstitutional under Packingham. Id. at 756. Therefore, the imposition of Condition 30 does not render the Defendant's sentence illegal.

Accordingly, it is **ORDERED AND ADJUDGED:**

1. The Defendant's Motion to Correct Sentence is **DENIED**.
2. The Defendant has the right to appeal this order within 30 days of its rendition.

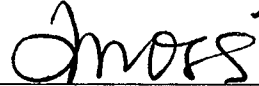
DONE AND ORDERED in Viera, Brevard County, Florida, this 15TH
day of FEBRUARY 2021.



STEVE HENDERSON
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I do certify that copies hereof have been furnished to the Office of the State Attorney, 2725 Judge Fran Jamieson Way, Building D, Viera, Florida 32940 and Roger D. Ream, DOC # E14926, Avon Park Correctional Institution, P.O. Box 1100, County Road 64 East Avon Park, Florida 33826, by U.S. mail/e-filing, this 11th day of February, 2021.



Judicial Assistant
Eighteenth Judicial Circuit
The Moore Justice Center
2825 Judge Fran Jamieson Way
Viera, Florida 32940-8006

Exhibit A

Reserved for Recording

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT,
IN AND FOR BREVARD COUNTY, FLORIDA

___ Probation Violator ___ Community Control Violator ___ Retrial ___ Resentence

STATE OF FLORIDA

Case Number: 05-2018-CF-012297-AXXX-XX

vs.

Filed in Open Court on February 13, 2019 2:09 pm.

ROGER DARRELL REAM

H Edwards, Deputy Clerk



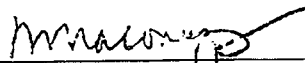
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JUDGMENT/ORDER OF PROBATION

Court was opened with the Honorable NANCY MALONEY (DIV B) presiding, and in attendance: State Attorney: GEORGE COLE GASPARD; Trial Clerk H Edwards. The Defendant, ROGER DARRELL REAM, being personally before this Court represented by JEREMY A CLECKNER, the attorney of record, and said Defendant having entered a plea of nolo contendere to the following crime(s):

OBTS Number(s): 0501367743			
Count	Crime	Offense Statute Number	Degree
1	POSS OF MATERIAL DEPICTING SEXUAL CONDUCT BY CHILD	827..071(.5)	F3
2	POSS OF MATERIAL DEPICTING SEXUAL CONDUCT BY CHILD	827..071(.5)	F3
<p><u>X</u> 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).</p> <p><u>X</u> And being a qualified offender pursuant to s. 943.325, the defendant shall be required to submit DNA samples as required by law.</p>			

DONE AND ORDERED in open court at Brevard County, Florida, on February 13, 2019.


NANCY MALONEY (DIV B), Circuit Judge

**Additional material
from this filing is
available in the
Clerk's Office.**