

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

PAMELA MCCOY,

Appellant,

v.

CASE NO. 5D22-0289
LT CASE NOS. 2002-CF-000217-B
2001-CF-002749-B

STATE OF FLORIDA,

Appellee.

DATE: April 29, 2022

BY ORDER OF THE COURT:

ORDERED that Appellant's "Motion for Rehearing and Request for Written Opinion," filed April 2, 2022 (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 Evander, Cohen and Wozniak

cc:

Office of the Attorney General Pamela McCoy

Appendix A

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

PAMELA MCCOY,

Appellant,

v.

Case No. 5D22-289

LT Case Nos. 2002-CF-000217-B

2001-CF-002749-B

STATE OF FLORIDA,

Appellee.

/

Decision filed March 22, 2022

3.800 Appeal from the Circuit Court
for Lake County,
James R. Baxley, Judge.

Pamela McCoy, Quincy, pro se.

No Appearance for Appellee.

PER CURIAM.

AFFIRMED.

EVANDER, COHEN and WOZNIAK, JJ., concur.

Appendix B 10/2

CERTIFICATE OF COMPLIANCE

Case No.: _____

PAMELA McCOY – PETITIONER

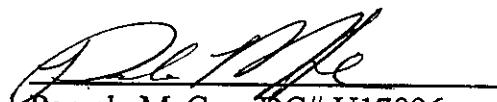
vs.

RICKY DIXON – RESPONDENT
Secretary, Fla. Dep't of Corrections

As required by Supreme Court Rule 33.1(h), I certify that the Petition for Writ of Certiorari contains 3179 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 18th, 2022.


Pamela McCoy, DC# U17996
Gadsden Correctional Facility
6044 Greensboro Hwy.
Quincy, Florida 32351

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT,
IN AND FOR LAKE COUNTY, FLORIDA

STATE OF FLORIDA

v.

CASE NO: 2001-CF-002749-B-02

2002-CF-000217-B-02

PAMELA MCCOY,

Defendant.

ORDER DENYING DEFENDANT'S RULE 3.800 MOTION TO CORRECT AN
ILLEGAL SENTENCE

THIS CAUSE comes before the Court on Defendant's *Rule 3.800 Motion to Correct an Illegal Sentence* (hereafter "Defendant's Motion") filed pursuant to Florida Rule of Criminal Procedure 3.800(a) on or about December 6, 2021 (mailbox rule). This Court, having reviewed the Defendant's Motion and the record, finds as follows:

Attached as "Exhibit A" is Defendant's "Motion to Correct an Illegal Sentence" filed February 28, 2018; attached as "Exhibit B" is the "Court's Order Denying Defendant's Motion to Correct Illegal Sentence" filed December 6, 2019; and attached as "Exhibit C" is the "Mandate from District Court of Appeal of the State of Florida Fifth District" affirming per curiam the order of the Court.

This Court notes that Defendant's latest motion pursuant to Rule 3.800(a) is successive and fails to allege new or different grounds for relief from Defendant's prior 3.800(a) motion filed on February 28, 2018, which was titled as *Motion to Correct an Illegal Sentence* (hereafter "Defendant's Prior Motion"). See Exhibit A. The record reflects that on December 6, 2019, the Court denied Defendant's Prior Motion and informed Defendant she had thirty (30) days to appeal the Court's order. See Exhibit B. The Defendant subsequently filed an appeal on

Appendix C 1 of 3

December 12, 2019, following which the Fifth District Court of Appeals would go on to affirm the Court's order per curiam on May 22, 2020. See Exhibit C.

As the prior determination was on the merits, this Court finds dismissal of the present Defendant's Motion appropriate under Rule 3.800(a)(2).

Based upon the foregoing, it is thereupon:

ORDERED AND ADJUDGED: Defendant's *Rule 3.800 Motion to Correct an Illegal Sentence* is DENIED. The Defendant has the right to appeal the denial within 30 days of rendition of this order.

DONE AND ORDERED in Chambers at Tavares, Lake County, Florida this 6^P day of January, 2022.

/S/ JAMES R. BAXLEY
JAMES R. BAXLEY, Circuit Judge

Appendix C 2023

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing has been provided by E-Mail/U.S. Mail/Inter-Office, Mail/Fax this 6th day of January, 2022, to the following:

Pamela McCoy
DC Number: U17996
Florida Women's Reception Center
3700 NW 111th Place
Ocala, Florida
34482-1479
Via US Mail

Office of the State Attorney,
Fifth Judicial Circuit,
Lake County
550 West Main Street
Tavares, FL 32778
By E-Portal

/S/ A. ROBERTS

Judicial Assistant/Deputy Clerk

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M A N D A T E

from

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA

FIFTH DISTRICT

THIS CAUSE HAVING BEEN BROUGHT TO THIS COURT BY APPEAL OR BY PETITION, AND AFTER DUE CONSIDERATION THE COURT HAVING ISSUED ITS OPINION OR DECISION;

YOU ARE HEREBY COMMANDED THAT FURTHER PROCEEDINGS AS MAY BE REQUIRED BE HAD IN SAID CAUSE IN ACCORDANCE WITH THE RULING OF THIS COURT AND WITH THE RULES OF PROCEDURE AND LAWS OF THE STATE OF FLORIDA.

WITNESS THE HONORABLE BRIAN D. LAMBERT, CHIEF JUDGE OF THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, FIFTH DISTRICT, AND THE SEAL OF THE SAID COURT AT DAYTONA BEACH, FLORIDA ON THIS DAY.

DATE: May 24, 2022

FIFTH DCA CASE NO.: 5D 22-0289

CASE STYLE: PAMELA MCCOY v. STATE OF FLORIDA

COUNTY OF ORIGIN: Lake

TRIAL COURT CASE NO.: 2002-CF-000217-B,

2001-CF-002749-B

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

Sandra B. Williams



SANDRA B. WILLIAMS, CLERK

Mandate and Opinion to: Lake Co Circuit Ct Clerk

cc: (without attached opinion)

Office of the Attorney Pamela McCoy
General

Appendix 'B' 2022

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

PAMELA L. MCCOY,

Appellant,

v.

Case No. 5D19-3653

STATE OF FLORIDA,

Appellee.

Decision filed April 28, 2020

3.800 Appeal from the Circuit
Court for Lake County,
Mark J. Hill, Judge.

Ana Gomez-Mallada, Ft. Lauderdale, for
Appellant.

Ashley Moody, Attorney General,
Tallahassee, and Kaylee D. Tatman,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

AFFIRMED.

EVANDER, C.J., EDWARDS and TRAVER, JJ., concur.

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M A N D A T E

from

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FIFTH DISTRICT

THIS CAUSE HAVING BEEN BROUGHT TO THIS COURT BY APPEAL OR BY PETITION, AND
AFTER DUE CONSIDERATION THE COURT HAVING ISSUED ITS OPINION OR DECISION;

YOU ARE HEREBY COMMANDED THAT FURTHER PROCEEDINGS AS MAY BE REQUIRED
BE HAD IN SAID CAUSE IN ACCORDANCE WITH THE RULING OF THIS COURT AND WITH THE
RULES OF PROCEDURE AND LAWS OF THE STATE OF FLORIDA.

WITNESS THE HONORABLE Kerry I. Evander, CHIEF JUDGE OF THE DISTRICT COURT OF
APPEAL OF THE STATE OF FLORIDA, FIFTH DISTRICT, AND THE SEAL OF THE SAID COURT AT
DAYTONA BEACH, FLORIDA ON THIS DAY.

DATE: May 22, 2020

FIFTH DCA CASE NO.: 5D 19-3653

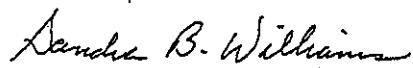
CASE STYLE: PAMELA L. MCCOY v. STATE OF FLORIDA

COUNTY OF ORIGIN: Lake

TRIAL COURT CASE NO.: 2001-CF-002749-B, 2002-CF-000217-B

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

2020 MAY 22 PM 12:58
CLERK OF CIRCUIT
AND COUNTY COURT
LAKE COUNTY
FLAVARES FLORIDA



SANDRA B. WILLIAMS, CLERK

CC:
Ana Gomez-Mallada

Kaylee D. Tatman
Lake Co Circuit Ct Clerk

Office of the Attorney General

Appendix D
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IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR LAKE COUNTY, FLORIDA

STATE OF FLORIDA,

v.

Pamela L. McCoy,
Defendant.

Case No.: 2001-CF-002749-B
2002-CF-000217-B

CLERK OF CIRCUIT
AND COURT COURT
LAKE COUNTY
FLORIDA

27, DEC 9 PM 11:05

ORDER DENYING DEFENDANT'S
MOTION TO CORRECT ILLEGAL SENTENCE

THIS CAUSE, having come before the Court on November 21, 2019 for hearing upon Defendant's Motion to Correct Illegal Sentence and the Court, having received the argument of counsel and being fully advised in the premises, finds as follows:

1. The Defendant, who was fifteen years old when she entered a plea agreement in the above-styled cases, was sentenced to thirty-five years in prison for Burglary of a Dwelling while Armed, Robbery with a Deadly Weapon, and Attempted First Degree Murder in 2001-CF-002749-B and a concurrent thirty-five years in prison for Second Degree Murder and Attempted Robbery with a Weapon in 2002-CF-000217-B.

2. On or about March 7, 2018, the Defendant filed her Motion to Correct an Illegal Sentence pursuant to Rule 3.800(a), Florida Rules of Criminal Procedure, alleging that her concurrent sentences of thirty-five years constitute *de facto* life sentences and fail to provide her a meaningful opportunity for early release based upon demonstrated maturity and rehabilitation.

3. In *Graham v. Florida*, 560 U.S. 48, 130 S.Ct. 2011, 176 L.Ed.2d 825 (2010), the Supreme Court invalidated life sentences without the possibility for parole for juveniles convicted of non-homicide offenses. Those juveniles so sentenced, or sentenced to *de facto* life sentences,

Appendix E

are entitled to resentencing in accordance with the statutory scheme enacted at Ch. 2014-220, Laws of Fla. *Henry v. State*, 175 So.3d 675, (Fla. 2015).

4. The rule announced in *Graham* was extended to homicide offenses in *Miller v. Alabama*, 567 U.S. 460, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012), with resentencing in Florida likewise governed by Ch. 2014-220. *Horsley v. State*, 160 So.3d 393 (Fla. 2015).

5. Based upon the Florida Supreme Court's recent opinions in *Franklin v. State*, 258 So.3d 1239 (Fla. 2018) and *Michel v. State*, 257 So.3d 3 (Fla. 2018), the Court finds the question to be whether or not a juvenile defendant was afforded a meaningful opportunity to obtain release from custody during his or her natural life.

6. The Defense has argued, and the State concedes, that the Defendant's sentences are not eligible for parole, meaning that other than any gain time awarded to the Defendant by the Department of Corrections, there is no mechanism for her to obtain early release from her sentences.

7. The parties agree that based upon gain time as shown on the Department of Corrections website, Defendant will complete her thirty-five-year sentence while she is in her forties. Without gain time, she would be fifty years old when she is released from prison.

8. As to 2001-CF-002749-B, the non-homicide sentence imposed was neither a life sentence nor a *de facto* life sentence. The sentence complies with *Graham* and was legal when rendered.

9. Similarly, the thirty-five year homicide sentence imposed in 2002-CF-000217-B was not a life sentence. Because the Defendant will certainly be released during her natural life, the sentence does not implicate *Miller* and is constitutional.

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10. There being no illegal sentence in these cases, the Defendant is not entitled to resentencing. *See McCrae v. State*, 267 So.3d 470 (Fla. 1st DCA 2019).

It is therefore ORDER AND ADJUDGED that the Defendant's Motion to Correct an Illegal Sentence is DENIED.

The Defendant has thirty days from the entry of this order to appeal.

DONE AND ORDERED at Tavares, Lake County, Florida, this 6 day of December, 2019.

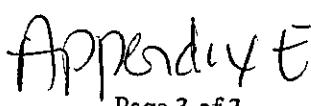


MARK J. HILL
Circuit Judge

Copies to:

John Mannion, Jr., Counsel for Defendant
Chris Small, Assistant State Attorney

6/11/19
12-11-19


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