

APPENDIX

APPENDIX

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- A. *Order Dismissing Cooper's Motion Pursuant to Rule 3.800(a), Florida Rules of Criminal Procedure, to Correct Fundamental Sentencing Error* filed April 8, 2021.
- B. PCA dated March 15, 2022 and Mandate dated April 1, 2022.

APPENDIX

A

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

CASE NO.: 16-1996-CF-9251- AXXX-MA

DIVISION: CR-D

STATE OF FLORIDA

vs.

VOHN ROBERT COOPER

/

**ORDER DISMISSING COOPER'S MOTION PURSUANT TO RULE 3.800(A),
FLORIDA RULES OF CRIMINAL PROCEDURE, TO CORRECT
FUNDAMENTAL SENTENCING ERROR**

This matter came before this Court on the Defendant's, by his Postconviction counsel, "Cooper's Motion Pursuant to Rule 3.800(a), Florida Rules of Criminal Procedure, to Correct Fundamental Sentencing Error" filed on March 23, 2021, pursuant to Florida Rule of Criminal Procedure 3.800(a). **[Exhibit "A", motion].**

In the instant motion, the Defendant raises one ground for relief. It arises out of a Judgment and Sentence herein entered on March 29, 2011, after the Defendant was found guilty of Robbery with a Firearm and adjudicated by the Court to be sentenced as a Habitual Violent Felony Offender. **[Exhibits B - G].** The Defendant appealed his conviction and imposed sentences and the First District Court of Appeal issued a mandate affirming the Defendant's conviction and sentence on December 30, 1997. **[Exhibit H].**

Defendant alleges a jury should have determined any fact that increased the statutory maximum in his case. Therefore, his fifty-year imposed sentence for armed robbery with a firearm is illegal because the trial judge, rather than the jury, found an increased sentence under

Habitual Violent Felony Offender (“HVFO”) was necessary for the protection of the public. The Defendant claims the trial judge could not make that determination according to Brown v. State, 260 So. 3d 147 (Fla. 2018). However, Brown held the jury should make a finding of dangerousness in the context of section 775.082(10), Fla. Stat, where a defendant faces a non-state prison sanction. In that context, written findings of the jury allow the trial judge to sentence defendant to a state correctional facility. In Defendant’s case, the trial judge was required to evaluate whether Defendant should be designated as an HVFO pursuant to section 775.084(3)(a)(6), *not section 775.082(10)*. In the instant Motion, counsel acknowledges the First DCA has rejected his argument in Armstrong v. State, 2020 WL 6126973 (Fla. 1st DCA Oct. 19, 2020). Section 775.084(3)(a)(6) does not require a trial judge to find an increased sentence under HVFO is necessary for the protection of the public. “Rather, the judge can make the finding to except an otherwise qualified defendant from habitual offender sentencing.” St. Louis v. State, 985 So. 2d 16, 18 (Fla. 4th DCA 2008).

This Court, after having reviewed the filed motion, record in entirety, and arguments made by the defendant finds, the Defendant’s claims made herein are *not* cognizable under Rule 3.800(a), in that they cannot be determined from the face of the record. Renaud v. State, 926 So. 2d 1241, 1242 (Fla. 2006); Burgess v. State, 831 So. 2d 137, 140 (Fla. 2002). “Rule 3.800(a) is intended to provide relief for a narrow category of cases in which the sentence imposes a penalty that is simply not authorized by law. Additionally, Florida Rule of Criminal Procedure 3.800(a) provides that a court:

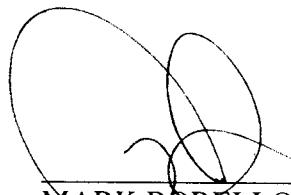
[M]ay at any time correct an illegal sentence imposed by it, or an incorrect calculation made by it in a sentencing scoresheet . . . when it is affirmatively alleged that the court records demonstrate on their face an entitlement to that relief....
(emphasis added).

Illegal sentences include only: "(1) those sentences in excess of the statutory maximum; (2) those sentences that fail to give credit for record jail time; and (3) those sentences that violate double jeopardy by a post sentencing enhancement clear from the record." Robinson v. State, 757 So. 2d 532, 533 (Fla. 4th DCA 2000). The Defendant's claims however, do not fall within the parameters of Florida Rule of Criminal Procedure 3.800(a). The record reflects, the Defendant's conviction and sentences are lawful and Defendant's claims made in the instant motion are legally insufficient, and therefore, the Defendant is not entitled to relief. [Exhibits "B" – "H"].

In view of the above, it is:

ORDERED AND ADJUDGED that: Cooper's Motion Pursuant to Rule 3.800(a), Florida Rules of Criminal Procedure, to Correct Fundamental Sentencing Error is hereby **DISMISSED. THIS IS A FINAL ORDER.** Defendant shall have thirty (30) days from the date of rendition of this order in which to take an appeal.

DONE AND ORDERED in Chambers, in Jacksonville, Duval County, Florida, this 7th day of April, 2021.



MARK BORELLO
CIRCUIT COURT JUDGE

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Vohn Robert Cooper, DOC# 144514
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216 S.E. Corrections Way
Lake City, Florida 32025

Case No.: 16-1996-CF-9251-AXXX-MA
Exhibits: A - H
lg

CERTIFICATE OF SERVICE

I do certify that a copy hereof has been furnished to the Defendant by United States mail
this 8 day of April, 2021.


Deputy Clerk

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

**VOHN ROBERT COOPER,
Defendant-Petitioner**

vs.

**CASE NUMBER 1996-CF-9251
DIVISION CR-D**

**STATE OF FLORIDA,
Respondent**

/

**COOPER'S MOTION PURSUANT TO RULE 3.800(a), FLORIDA
RULES OF CRIMINAL PROCEDURE, TO CORRECT
FUNDAMENTAL SENTENCING ERROR**

Comes now VOHN ROBERT COOPER ("Cooper"), by his undersigned post-conviction counsel, WILLIAM MALLORY KENT, pursuant to Rule 3.800(a), Florida Rules of Criminal Procedure, and moves this Honorable Court to correct the fundamental sentencing error in his case.

STATEMENT OF THE CASE AND FACTS

Over defense objection¹ Cooper was sentenced December 9, 1996 as a habitual violent felony offender to an enhanced sentence of fifty (50) years imprisonment² for

¹ A true and correct copy of the transcript of the sentencing proceeding including this objection is hereunto annexed as Exhibit A and by this reference made a part hereof.

² A true and correct copy of the judgment and habitual offender sentencing order is hereunto annexed as Exhibit B and by this reference made a part hereof.

Exhibit A

the offense of armed robbery with a firearm, in violation of Florida Statutes, § 812.13(2)(A), a first degree felony punishable by life imprisonment. The robbery was alleged to have occurred July 27, 1996. The Florida Sentencing Guidelines in effect at the time of this offense were mandatory, unless the court made written findings to justify a departure sentence. Cooper's guideline range was 54.75 months minimum to 91.25 months maximum.³ To impose an upward departure sentence a judge was required to file contemporaneous written reasons which had to be based on legally accepted departure grounds. No written reasons for a departure sentence were filed and indeed the sentencing judge did not intend to sentence Cooper as a departure from the guidelines, but instead intended to sentence Cooper as a violent habitual felony offender.

The sentencing judge found Cooper to be a habitual violent felony offender pursuant to Florida Statutes, § 775.084. Section 775.084(3)(a)6 required the *court* to make a finding of dangerousness as a predicate requirement to habitualization.

6. For an offense committed on or after October 1, 1995, if the state attorney pursues a habitual felony offender sanction or a habitual violent felony offender sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a habitual felony

³ A true and correct copy of the guideline scoresheet is hereunto annexed as Exhibit C and by this reference made a part hereof.

offender or a habitual violent felony offender, subject to imprisonment pursuant to this section unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence the defendant as a habitual felony offender or a habitual violent felony offender, the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. Each month, the court shall submit to the Sentencing Commission the written reasons or transcripts in each case in which the court determines not to impose a habitual felony offender sanction or a habitual violent felony offender sanction.

Judge Brad Stetson made the required finding.

Had the sentencing judge not made the dangerousness finding the Court would have been limited to sentence Cooper to the maximum guideline sentence of 91.25 months.

STATEMENT OF THE ISSUE

THE SENTENCING JUDGE VIOLATED ARMSTRONG'S SIXTH AMENDMENT RIGHT TO HAVE A JURY DETERMINE ANY FACT THAT INCREASED THE STATUTORY MAXIMUM IN HIS CASE.⁴

SUMMARY OF ARGUMENT

The United States Supreme Court has declared that the "statutory maximum for *Apprendi*⁵ purposes is the maximum sentence a judge may impose solely on the basis of the facts reflected in the jury verdict, or admitted by the defendant." *Blakely v. Washington*, 542 U.S. 296, 303 (2004). This principle is drawn from the Supreme Court's previous ruling in *Apprendi*: "Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt." *Apprendi*, 530 U.S. at 490. In *Blakely*, the Supreme Court simply clarified *Apprendi* by further defining "statutory maximum" as "the maximum sentence a judge may impose solely

⁴ This argument has been rejected by the First District Court of Appeal in an appeal argued by undersigned counsel, *Armstrong v. State*, 2020 Fla. App. LEXIS 14702 * | 45 Fla. L. Weekly D 2369 | 2020 WL 6126973 (Fla. 1st DCA 2020). Counsel has carried the argument forward in a federal habeas petition which is pending before the Honorable Timothy Corrigan in the United States District Court for the Middle District of Florida case number 3:21-cv-00294-TJC-JBT.

⁵ *Apprendi v. New Jersey*, 530 U.S. 466 (2000).

on the basis of the facts reflected in the jury verdict or admitted by the defendant." *Blakely*, 542 U.S. at 303 (emphasis in original).

Under the Sixth Amendment (applicable to the states under the Fourteenth Amendment), only a jury can make findings to authorize a sentence beyond the statutory maximum.

The habitual offender statute, Florida Statutes, § 775.084(3)(a)(6), requires a finding that habitualization is necessary for the “protection of the public” before an habitual offender sentence may be imposed.

The statutory maximum for purposes of Cooper’s sentencing was the maximum guideline sentence available under Cooper’s guideline scoresheet, 91.25 months. *See United States v. Booker*, 543 U.S. 220 (2005). The sentencing judge, without a special jury verdict or admission of the defendant, made the finding required pursuant to Florida Statutes, § 775.084(3)(a)(6), that habitualization was necessary “for the protection of the public,” and upon this judicial finding imposed a sentence more than 42 years in excess of that otherwise applicable under *Booker*.

This motion is controlled by the Florida Supreme Court’s decision in *Brown v. State*, 260 So. 3d 147 (Fla. 2018), which held that a comparable judicial fact finding under Florida Statutes, § 775.082(1), was unconstitutional. This Court is bound by the Supreme Court’s holding and reasoning in *Brown*.

ARGUMENT

THE SENTENCING JUDGE VIOLATED ARMSTRONG'S SIXTH AMENDMENT RIGHT TO HAVE A JURY DETERMINE ANY FACT THAT INCREASED THE STATUTORY MAXIMUM IN HIS CASE

Cooper was convicted of a single count of armed robbery with a firearm, in violation of Florida Statutes, § 812.13(2)(a), which although it is a first degree felony punishable by up life in prison, under the guidelines in effect at the time of his offense, sentencing was cabined by sentencing guidelines which limited Cooper's sentence to 91.25 months. The sentencing judge determined that Cooper was a habitual violent felony offender, based on his finding that it was necessary to do so for the "protection of the public."

Having made that determination the sentencing judge exceeded the otherwise applicable maximum guideline sentence and imposed a sentence of fifty (50) years imprisonment.⁶ It is simply indisputable that the "statutory maximum," as that term is understood under the United States Supreme Court's *Apprendi* and *Booker* jurisprudence, means the guideline range without any departure:

Title 18 U.S.C. § 3553(b) [18 USCS § 3553(b)] directs that a court "shall impose a sentence of the kind, and within the range" established

⁶ It is no answer to this to say that the court could have imposed an upward departure sentence up to the nominal statutory maximum of life, because it did not do so, and under *Booker* it could not do so.

by the Guidelines, subject to departures in specific, limited cases. Because they are binding on all judges, this Court has consistently held that the Guidelines have the force and effect of laws. *Further, the availability of a departure* where the judge "finds . . . an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the guidelines that should result in a sentence different from that described," § 3553(b)(1), *does not avoid the constitutional issue*. Departures are unavailable in most cases because the Commission will have adequately taken all relevant factors into account, and *no departure will be legally permissible*. *In those instances, the judge is legally bound to impose a sentence within the Guidelines range*.

United States v. Booker, 543 U.S. 220, 226 (2005) (emphasis supplied).

Cooper was sentenced outside his mandatory guideline range based on the habitual violent felony offender finding which was based on judicial fact finding in violation of *Apprendi*.

With *Apprendi/Blakely/Booker* problems there are classically two questions.

The first is the *Apprendi* question: has there been an impermissible *factfinding* - that is, was the finding which enhanced the sentence a finding of fact which only a jury can make, or was the finding something that is committed to the authority of a judge alone to determine - typical of this would be a finding of a prior conviction, which the courts have continued to permit as a matter not subject to genuine dispute and readily determinable from court records.

The second is the *Blakely/Bookwe* question: has the *Apprendi* fact finding

increased the *statutory maximum sentence*?

There can be no dispute that the sentencing judge's determination that the "protection of the public" required a habitual offender sentence was an *Apprendi* prohibited fact finding.

That this is so is dictated by the recent decision of the Florida Supreme Court in *Brown v. State*, 260 So. 3d 147 (Fla. 2018), which held that a comparable judicial fact finding under Florida Statutes, § 775.082(10), was unconstitutional under *Apprendi*. *Brown* governs the determination of this motion.

The judicial finding made in *Brown* under § 775.082(10) was whether the a non-state prison sanction for the particular defendant would "present a danger to the public." The finding required in Cooper's case under § 775.084(3)(a)(6) was whether a habitual offender sentence was necessary for "the protection of the public." The two findings are synonymous. There is no difference between the two findings. The Florida Supreme Court's decision in *Brown* found that the determination of dangerousness in *Brown* was a decision only a jury could make; a judge's determination violates the Sixth Amendment:

Accordingly, we hold that subsection (10) violates the Sixth Amendment in light of *Apprendi* and *Blakely* based on its plain language requiring the court, not the jury, to find the fact of dangerousness to the public necessary to increase the statutory maximum nonstate prison sanction. Cf. *Booker v. State*, 244 So. 3d 1151, 1164 (Fla. 1st DCA

2018) (holding that "the second sentence of subsection (10) is unconstitutional under the Sixth Amendment as applied to [the defendant]" because "the trial judge's factual findings—and thereby [the defendant's] enhanced sentence—were neither based on a jury finding that he poses a 'danger to the public' nor limited to only the fact that [the defendant] had prior convictions"); cf. also *Plott v. State*, 148 So. 3d 90, 95 (Fla. 2014) ("hold[ing] that upward departure sentences that are unconstitutionally enhanced in violation of *Apprendi* and *Blakely* patently fail to comport with constitutional limitations, and consequently, the sentences are illegal under rule 3.800(a)").

Brown, at 150.

Therefore, Cooper's sentence must be vacated.

ERROR IS COGNIZABLE UNDER RULE 3.800(a)

This was an error cognizable under Rule 3.800(a), because the sentence was imposed in violation of the Florida and United States Constitutions.

As is evident from our recent holding in *Hopping*, we have rejected the contention that our holding in *Davis* mandates that *only* those sentences that facially exceed the statutory maximums may be challenged under rule 3.800(a) as illegal. Further, we agree with the observations of Judge Barkdull in the Third District's decision in *Hopping* that a sentence that does not mandate credit for time served would be illegal since a trial court has no discretion to impose a sentence without crediting a defendant with time served. *A sentence that patently fails to comport with statutory or constitutional limitations is by definition "illegal".*

State v. Mancino, 714 So.2d 429, 433 (Fla.1998) (emphasis supplied).

REMEDY

Cooper's sentence must be vacated and his case set for a *de novo* resentencing at which the maximum sentence is 91.25 months.⁷

In holding that *Apprendi* and *Blakely* apply to resentencings regardless of the finality of the defendant's conviction before they issued, the First District implicitly followed longstanding precedent of this Court regarding the nature of resentencing. As we explain below, two principles support our holding that these two United States Supreme Court cases apply to all resentencing proceedings held after they issued: (1) resentencing proceedings are *de novo*; and (2) the decisional law in effect before an appeal is final applies to the proceeding. . . .

First, this Court has long held that where a sentence has been reversed or vacated, the resentencings in all criminal proceedings, including death penalty cases, are *de novo* in nature. See *Morton v. State*, 789 So. 2d 324, 334 (Fla. 2001). (reasoning that in a new penalty phase "resentencing should proceed *de novo* on all issues bearing on the proper sentence" (quoting *Teffeteller v. State*, 495 So. 2d 744, 745 (Fla. 1986))); see also *Preston v. State*, 607 So. 2d 404, 408 (Fla. 1992) (referring to new penalty phase proceeding as a "clean slate" and stating that "a resentencing is a completely new proceeding"). This means that when a defendant is resentenced, "the full panoply of due process considerations attach." *State v. Scott*, 439 So. 2d 219, 220 (Fla. 1983) ("[O]nce the court has determined that the sentence was indeed illegal and the prisoner is entitled to a modification of the original sentence or the imposition of a new sentence, the full panoply of due process considerations attach."); see *Trotter v. State*, 825 So. 2d 362, 368 (Fla. 2002) ("We agree with the district courts of appeal that a resentencing pursuant to *Heggs* is a *de novo* sentencing proceeding that must comport with constitutional requirements.").

⁷ Because Cooper has served far in excess of 91.25 months this Court should order his immediate release pending resentencing.

State v. Fleming, 61 So. 3d 399, 405-06 (Fla. 2011).

CONCLUSION

Defendant Petitioner Vohn Robert Cooper requests this Honorable Court vacate the judgment, conviction and sentence, order his immediate release, and set the matter for *de novo* resentencing at which the maximum sentence would be 91.25 months.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that an e-filed copy of the foregoing document has been furnished by e-service to the Office of the State Attorney, 311 West Monroe Street, Jacksonville, Florida, 32202, at sao4duvalcriminal@coj.net, this the 23rd day of March, 2021.

s/William Mallory Kent
William Mallory Kent

EXHIBITS

- A** **Sentencing Transcript**
- B** **Judgment and Habitual Offender Order**
- C** **Guideline Scoresheet**

EXHIBIT A
SENTENCING TRANSCRIPT

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

1 IN THE CIRCUIT COURT OF THE FOURTH
2 JUDICIAL CIRCUIT, IN AND FOR DUVAL
3 COUNTY, FLORIDA.
4
5
6 STATE OF FLORIDA Case No. 96-9251-CF
7 -vs-
8 VOHN COOPER, Division Cr-D
9 Defendant.

FILED

10. 5 100?

15 PROCEEDINGS taken on December 9, 1996
16 before the Honorable Brad Stetson, Judge of the
17 Circuit Court, Division Cr-D, in the Duval County
18 Courthouse, Jacksonville, Florida, and as reported
19 by Faye M. Gay, Registered Professional Reporter,
20 Registered Merit Reporter, Certified Realtime
21 Reporter.

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2 APPEARANCES:

3 PATRICIA DODSON and BERNARD de la RIONDA,

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6 THOMAS ROSENBLUM,

7 | Appear on behalf of the Defendant.

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1 THE COURT: Bring out Vohn Cooper.
2 (Defendant present.)
3 MR. ROSENBLUM: Good morning, Judge.
4 THE COURT: Good morning.
5 THE COURT: You're Vohn Cooper, sir?
6 DEFENDANT COOPER: Yes, sir.
7 THE COURT: We're here for sentencing
8 today. There's also a hearing.
9 THE CLERK: Right. We had to stop the
10 sentencing to come up with the --
11 THE COURT: What?
12 THE CLERK: The probation hearing.
13 THE COURT: Yeah, hearing on the affidavit
14 for violation of probation. All right. For
15 the record now, we never did set this down for
16 hearing on the probation affidavit. The State
17 needs to tell the Court when you want to do
18 things like that because, frankly, I can't
19 think of things like that all the time. When I
20 was a prosecutor, I used to tell the Court when
21 I wanted to be heard on the hearing at the same
22 time as the trial, but no one has said that to
23 me and I didn't think of it, but it's my fault
24 and I've relied upon the State to remind me of
25 things like that, so here we are.

1 Again, the question is what do we do now.
2 Can the Court go back and rely upon the trial
3 testimony or not? Does anybody know?

4 MR. ROSENBLoom: Judge, I haven't
5 researched that, but we would stipulate that
6 according to the affidavit from the probation
7 office that, yes, my client did get arrested
8 and that if there's a violation --

9 THE COURT: Can we quiet that down?

10 MR. ROSENBLoom: -- we'd stipulate, Judge,
11 that the allegation of the rule that my client
12 did get re-arrested and if that's a violation
13 we'd stipulate to to that, Judge. We should be
14 --

15 THE COURT: Would you stipulate he also
16 got convicted by a jury?

17 MR. ROSENBLoom: Yes, sir, Judge.

18 THE COURT: All right. Does the State
19 have any case law on this?

20 MR. De la RIONDA: No, sir. Ms. Dodson is
21 here. It's her case.

22 THE COURT: I would think the Court could
23 rely upon a stipulation of an arrest and
24 conviction beyond a reasonable doubt.

25 MR. De la RIONDA: I think you can.

1 THE COURT: The law would certainly be
2 illogical if that weren't true.

3 Let me see the affidavit, please.

4 I passed it last time in court to today
5 for a hearing on the affidavit for violation of
6 probation so the State could be prepared to
7 prove their case or give me some authority
8 showing me that we don't need to go any
9 further.

10 MR. De la RIONDA: Your Honor, it's my
11 understanding that Mr. Rosenbloom said he was
12 stipulating to the affidavit.

13 THE COURT: Did you say that?

14 MR. ROSENBLOOM: Yes, Judge, I would --

15 THE COURT: I thought you said you
16 stipulated there was an arrest. That's the way
17 I heard it.

18 MR. ROSENBLOOM: That is one of the
19 allegations.

20 THE COURT: I have to rely upon what I
21 heard.

22 MR. ROSENBLOOM: That is the main
23 allegation, Judge, I would submit. There are a
24 couple of other allegations --

25 THE COURT: Well, there's some technical

1 violations also. Let's make it clear now. Are
2 you stipulating to those, that the State can
3 prove those or not?

4 MR. ROSENBLoom: Judge, yes, sir. We say
5 as far as the violation, though, it would just
6 be the arrest that should be the violation
7 because if they're saying --

8 THE COURT: Then the answer is not yes,
9 the answer is no, you're not stipulating to the
10 technical violations. I asked you are you
11 stipulating to the technical violations. You
12 said, yes, but what we're really stipulating to
13 is the arrest. Well, that's not -- you're not
14 stipulating to the technical violations then.
15 I just want to get it clear.

16 MR. ROSENBLoom: I would say no, Judge,
17 but if he didn't finish community service hours
18 I would stipulate to that, but I don't think
19 that should be a violation because the
20 probation was not completed yet; he could have
21 completed the community service hours, and
22 that's one of the allegations.

23 THE COURT: The record is clear to me, at
24 least at this point, there is no stipulation to
25 any of the technical violations so let's focus

1 on the arrest. He was arrested and he was
2 convicted and does the defense stipulate that
3 that constitutes a factual basis for the
4 violation of probation?

5 MR. ROSENBLoom: Yes, Judge.

6 THE COURT: And I'll proceed to
7 sentencing.

8 MR. ROSENBLoom: Judge, could we request
9 the sentencing be postponed until after the
10 sentencing on the trial case, Judge? That was
11 what we handled first and clearly the State
12 wants to try and expedite the sentencing on a
13 violation to try and increase the sentence on
14 the trial, but, Judge, it's our position the
15 trial came first and it should not be -- any
16 sentence should not be increased or aggravated
17 just because of the violation of probation is
18 now added into my client's record. As it is
19 now, it makes a bit of difference. I mean he
20 has no prior convictions for felonies.

21 MR. De la RIONDA: That counts as a
22 conviction for sentencing purposes, doesn't it?

23 MS. DODSON: Yes, it does. Statutorily it
24 does.

25 THE COURT: What is the issue? I've lost

1 track of the issue here. I've gotten so
2 confused here. Is the issue -- does he need to
3 be adjudicated guilty of this probation case to
4 be eligible to be sentenced as an habitual
5 offender or not?

6 MS. DODSON: Under the statute I don't
7 believe so, Your Honor.

8 THE COURT: What is the purpose -- is the
9 State asking me to --

10 MR. De la RIONDA: Yeah, that counts as a
11 conviction for HO also. If he's on probation,
12 it's a conviction. I'm sorry, Judge. Being
13 aware of the HO law, if he's on probation for
14 aggravated assault, then that is a conviction
15 per the HO statute. That is covered under the
16 statute. That counts as a conviction for HO.

17 THE COURT: Even though it's a withhold of
18 adjudication?

19 MR. De la RIONDA: Even though it's a
20 withhold. If he's on probation at the time he
21 commits the new crime, then that is a
22 conviction under Statute 775.084.

23 THE COURT: Because everybody is acting
24 like it's necessary to adjudicate him guilty
25 before he could be declared an habitual

1 offender, the defense is certainly acting like
2 that and in my opinion the State is also,
3 maybe the smartest thing we can do, in an
4 abundance of caution, is to adopt the State's
5 argument, but I'd like to know what the law
6 is. There's been a lot of confusion.

7 MR. De la RIONDA: I'll find the statute.

8 THE COURT: This case is in recess until
9 the State can get their act together. It's too
10 much bickering going on back and forth.
11 Temporarily pass the case.

12 MR. De la RIONDA: May I see the statute
13 book to show the Court?

14

15 (Further calendar proceedings.)

16

17 THE COURT: Are you all ready to proceed
18 with the Cooper case?

19 MR. ROSENBLUM: Yes, sir.

20 THE COURT: Bring Mr. Cooper back.

21 (Defendant present.)

22 THE COURT: Okay. This record now
23 hopefully is not hopelessly confused, but it's
24 close to it. The defendant has been convicted
25 by a jury of armed robbery. That's one of the

1 allegations in the violation of probation.
2 Unfortunately, no one thought of before the
3 trial bringing up and getting on the record a
4 stipulation that the facts brought out at trial
5 would be used for the -- considered to be a
6 hearing on the violation of probation, but at
7 this point it doesn't matter because the
8 defense has stipulated and agreed that those
9 facts could be used. Therefore, the Court
10 finds the defendant to be in violation of
11 probation based upon the new arrest as alleged
12 in the affidavit.

13 Now, the only question is at this point,
14 the only issue is the defense is asking me to
15 sentence him on the violation after I sentence
16 for the armed robbery. I think I've got the
17 discretion to do it either way, but let me hear
18 from the State.

19 MS. DODSON: Your Honor, the State's
20 position, it really doesn't make a difference
21 which order you sentence him. Pursuant to
22 775.084, subsection 2 of the Florida Statutes,
23 placing a person on probation without an
24 adjudication of guilt shall be treated as a
25 prior conviction if the subsequent offense for

1 which he is to be sentenced was committed
2 during such probationary period. Therefore, it
3 is not necessary that an adjudication be on the
4 record, which is why an HFVO notice was filed
5 from the very beginning, and the State would
6 submit that a copy of the probation order which
7 indicates the case number and the conditions of
8 probation which has been violated to be entered
9 into the record for purposes of the prior --

10 THE COURT: I've already accepted into
11 evidence as State's Exhibit No. 1, that being
12 the prior conviction for aggravated assault,
13 November 1st, 1995, Case No. 95-5328-CFA, Duval
14 County, is that correct?

15 MR. De la RIONDA: Yes, Your Honor.

20 THE CLERK: Judge, I'll have to supplement
21 the record with a copy of the probation order.
22 That's what she said. That's what's going to
23 be used as the Exhibit No. 1.

24 THE COURT: All right.

25 THE CLERK: A certified copy of his

1 probation order because it was a withhold.

2 THE COURT: Wasn't there a normal judgment
3 and sentence?

4 THE CLERK: No, not on a withhold. That's
5 what we're going to use.

6 THE COURT: That's what you're going to
7 put in as State's Exhibit No. 1?

8 THE CLERK: Yes.

20 Now, I've gotten a little lost in the
21 procedural issue. I'd like to get back to the
22 substantive issue. What is the proper
23 procedure for this defendant? We've had the
24 first stage of this hearing, is that correct?

25 THE CLERK: Yes, sir.

1 MS. DODSON: We haven't had argument, Your
2 Honor.

3 THE COURT: I want to have argument today
4 and if there's any other additional mitigation
5 or aggravation, put that on. Anything from the
6 defense? Any other evidence besides argument?

7 MR. ROSENBLoom: No, sir, Judge.

8 THE COURT: State, any other evidence
9 besides argument?

10 MS. DODSON: No Your Honor.

11 THE COURT: Then I'll hear from the
12 defense and I'll hear from the State.

13 MR. ROSENBLoom: Judge, we would first
14 make it clear what we were requesting is a
15 deviation, downward departure from the
16 guidelines, Judge. You heard the facts in this
17 case. The testimony was -- was conflicting,
18 drastically conflicting from the victim who
19 made inconsistent statements, who exaggerated,
20 and we submit didn't tell the truth. From his
21 own inconsistent statements, prior inconsistent
22 statements, we impeached him from what he said
23 in deposition and then in trial.

24 Judge, the co-defendant in this case --
25 first of all, my client is not a violent

1 offender, especially habitual violent
2 offender. One case does not -- it may be
3 technical in the black-and-white letters of the
4 Florida Statute, but, Judge, I find it hard to
5 find somebody habitually violent when they have
6 one prior withhold of adjudication. The
7 co-defendant in this case is receiving some
8 very favorable treatment. He's the one that
9 admitted he beat up the victim in this case.
10 If anyone is violent, it would be the
11 co-defendant. We would argue, Judge, that my
12 client should get five years or less as the
13 co-defendant in this case. He is the one that
14 was more culpable and he's the one that took
15 money and drugs which he -- the co-defendant
16 admitted and he's also the one that hit the
17 victim. Judge, he's the one that set up the
18 whole deal. He's the one that was with the
19 victim originally. My client wasn't even
20 present when he first met the victim and
21 planned a meeting or what have you. My client
22 wasn't even involved in it.

1 was -- the Court felt it could withhold
2 adjudication on so I don't think it was the
3 most egregious case that has come through the
4 docket.

5 THE COURT: Well, the PSI says that
6 [REDACTED]

7 [REDACTED] That's not violent?
8 [REDACTED]

9 MR. ROSENBLoom: Where is that from,
10 Judge?

11 THE COURT: That's the PSI. Am I reading
12 the wrong case? This is from the prior. No,
13 actually that's from this case. I'm sorry.
14 That's this particular case.

15 MR. ROSENBLoom: Okay.

16 THE COURT: My mistake.

17 MR. ROSENBLoom: All right, Judge, we
18 would again remain on that argument that there
19 is not a violent background to sentence my
20 client to habitual violent felony offender.
21 There was evidence came in, Judge, we would
22 submit, extremely prejudicial to my client in
23 front of the eyes of the jury and I would think
24 their weighing the evidence and weighing the

1 conflicting testimony of the witnesses when
2 prejudicial, immaterial allegations come in
3 from the State and from an officer that he
4 previously arrested my client and from the
5 State my client is [REDACTED] or has been [REDACTED]
6 [REDACTED] because he hangs the around criminals
7 and lives a criminal lifestyle, and violated
8 the motion in limine order that they would not
9 bring up that he has a present case pending.
10 So when you had conflicting testimony from
11 witnesses and victims, I think that's other
12 allegations, Judge, probably had the jury --
13 made the jury want to convict just on those
14 alone and I think those should be grounds for
15 appeal.

16 Again, Judge, the co-defendant was more
17 culpable and he is receiving very favorable
18 treatment. Judge, more importantly, my client
19 has a young child and fiancee and I think any
20 extremely long sentence is going to be
21 detrimental to that child's up-bringing and,
22 Judge, again, we'd request a departure downward
23 from the guidelines.

24 THE COURT: All right. State.

25 MS. DODSON: Your Honor, the State

1 disagrees with Mr. Rosenbloom's
2 characterization that this defendant does not
3 have a violent past. To the contrary, the
4 Court can take notice of the case that's
5 pending before you right now on the probation
6 which was an aggravated assault with a
7 firearm. Your Honor, you can take --

8 THE COURT: Where in the PSI is that? I
9 keep looking for it and can't find it.

10 MS. DODSON: In the PSI they didn't list
11 the facts of that case. I think you can take
12 notice of the docket, plus we have the general
13 offense. It's on page No. 4, Your Honor.
14 Third from the bottom.

15 THE COURT: Okay.

16 MS. DODSON: DOC did not prepare a factual
17 basis like they generally do, however, I think
18 that since this case is before you you can look
19 at --

20 THE COURT: Let me see his arrest record.

21 MS. DODSON: -- the docket on the prior
22 and in that case the defendant pointed a
23 firearm at two different individuals and
24 threatened to kill them and to blow up their
25 house and that is the case that he was placed

1 on probation for. That was a very violent act
2 that involved a .38 revolver that he threatened
3 not only one person but two individuals, to
4 kill them and to destroy their homes.

5 In addition, Your Honor, you can take into
6 consideration the fact that the pending
7 homicide case against this defendant occurred a
8 month prior to this armed robbery against Mr.
9 Higginbotham. Even though there is no
10 adjudication of that case, that is previous to
11 this armed robbery that's before you and a
12 grand jury found probable cause that this
13 defendant should be charged with a homicide and
14 that he was present during the commission of
15 killing another human being. That is a
16 terribly violent act and the facts of the case
17 before you on the armed robbery, this defendant
18 threatened to shoot the victim. As a matter of
19 fact, they nonchalantly laughed over the fact
20 that the car was not registered to them and no
21 one would know who killed Mr. Higginbotham, who
22 had the gun pointed in his face within inches
23 of his face, discussing whether to kill him or
24 spare his life and, if anything, Mr. Pringle's
25 act is what saved Mr. Higginbotham's life based

1 on the facts he testified to and I think the
2 record would support during this jury trial.
3 Even Mr. Higginbotham related those feelings to
4 the Court and the jury, that it was Mr. Pringle
5 who he thinks basically pulled him out of the
6 car in the nick of time and it is not Mr.
7 Pringle who is the most culpable one in this
8 case, contrary to their argument. If anything,
9 it was this defendant that came, was in the car
10 with the firearm, was the one known to be
11 carrying that same firearm, that that was his
12 prized possession and he is the one that turned
13 around and put it in the face of Mr.
14 Higginbotham.

15 Your Honor, you can consider the facts of
16 this instant case, the facts, the violent facts
17 of this prior aggravated assault, and the fact
18 that he has a pending homicide for killing
19 another human being and taking another human
20 being's life and as a result the State would
21 request that the defendant be sentenced to life
22 with a 15 year minimum mandatory.

23 MR. ROSENBLoom: Judge, may I rebut that
24 briefly?

25 THE COURT: Yes, sir.

1 MR. ROSENBLUM: Judge, I do not think a
2 pending case should be brought into the Court's
3 consideration at all in this sentencing. This
4 has nothing to do with this case. The State
5 believes my client was present in that case.
6 That doesn't make him a murderer. He's not
7 charged with attempted murder in this case
8 either.

9 THE COURT: I don't think the Court can
10 really consider a pending charge either so I
11 agree with you on that. I will not consider
12 it.

13 MR. ROSENBLUM: All right.

14 THE COURT: Let me say this, first of
15 all. I'm sorry. I got his facts mixed up with
16 someone else and I'll totally disregard those
17 facts that I read into the record. However,
18 that certainly was a mistake on my part and no
19 one else's and he shouldn't be held accountable
20 for some other case. I was reading the wrong
21 presentence investigation.

22 However, the facts -- I have found the
23 facts of the aggravated assault, the case that
24 we would be focusing on, the case for which he
25 was on probation at the time that he committed

1 this crime, which the jury did convict him of,
2 armed robbery, and the facts of the aggravated
3 assault case say on the affidavit on the back
4 of his arrest and booking report as follows --
5 I'm going to read them -- and the point is that
6 what is on the back of the report is worse than
7 what I read into the record earlier. It says
8 that, "After talking about the consent of the
9 search of the car, it says a .38 Derringer and
10 a .38 revolver was located under the driver's
11 seat. The suspect listed, who was sitting in
12 the front passenger seat, said the Derringer
13 belonged to him and he bought it on the
14 street. The suspect was arrested, Marandized
15 and transported to the Pretrial Detention
16 Facility. The suspect states that he and the
17 co-defendant were going to 5366 Ramona
18 Boulevard to shoot the guy who broke into his
19 friend's car the other night. He also stated
20 he was an active member of the Westside Mafia.
21 The weapons were placed in the property room."
22 And those facts, coupled with the facts that
23 Ms. Dodson read to the Court, do show the Court
24 that the defendant has a serious record and
25 proclivity towards violence. A direct

1 proclivity towards violence.

2 All right. That being said, first of all,
3 on the violation of probation, I'm going to
4 adjudicate the defendant guilty based upon his
5 stipulation that the facts brought out at trial
6 could be used as a basis for the charge in the
7 violation of probation.

8 What is the potential he faces?

9 MS. DODSON: 17 months -- 17 and a half
10 months in Florida State Prison.

11 THE COURT: Okay. That's a guidelines
12 sentence and I take it 17 and a half months is
13 the maximum?

14 MS. DODSON: Yes, Your Honor.

15 THE COURT: So I adjudicate you guilty and
16 sentence you to 17 months in Florida State
17 Prison. You get full credit for time served.

18 THE CLERK: One hundred and two days.

19 THE COURT: And you have --

20 Are there any additional court costs in
21 that case? I take it not.

22 PROBATION OFFICER: He was ordered court
23 costs originally. They're still outstanding.

24 THE COURT: Now, there's going to be a
25 Public Defender -- excuse me -- not a Public

1 Defender but a court-appointed attorney, since
2 I have declared the defendant indigent and will
3 be paying Mr. Rosenbloom. The taxpayers will
4 be paying Mr. Rosenbloom. By law Mr.
5 Rosenbloom has to ask for a lien upon you, Mr.
6 Cooper, for the cost of his services.

7 Do we know how much your total bill will
8 be?

9 MR. ROSENBLOOM: Judge, we'll have that
10 prepared. We did have one more motion that I
11 did want to bring before the Court.

12 THE COURT: On what?

13 MR. ROSENBLOOM: Judge, that was on the
14 issue I brought up last week about the jurors,
15 interviewing the jurors. A motion is being
16 prepared right now.

17 THE COURT: Well --

18 MR. ROSENBLOOM: So now I don't really
19 know the total of my time right now.

20 THE COURT: Approximately how much will
21 the bill be, approximately?

22 MR. ROSENBLOOM: Judge, I'd say maybe two
23 thousand.

24 THE COURT: All right. I'm going to give
25 you two choices, Mr. Cooper. He's going to ask

1 for a lien of at least two thousand dollars.
2 He's done at least two thousand dollars worth
3 of work in this case, in my opinion, but what
4 counts is how you feel about it. You're
5 entitled to a hearing if you feel that he's
6 asking for an unreasonable fee in this case and
7 that that lien -- see, it's going to be a lien
8 upon you. If you ever get money or assets or
9 anything in the future, the State could come
10 and seize those assets to pay the State back
11 for the cost of Mr. Rosenbloom's services. If
12 you want a hearing, I'll set it for hearing a
13 week or two, three down the road. On the other
14 hand, if you want to agree and stipulate now
15 and give up the right to hearing, I'll assess a
16 lien for two thousand dollars. We all know
17 that his bill will probably be more than that.
18 If it's less than, we'll reduce the lien.

19 MR. ROSENBLOOM: Do you want to do it in
20 the probation case or the trial case?

21 THE COURT: It's on both. It's on both.
22 I'm just going to pay him on both. Get a bill
23 for both cases.

24 MR. ROSENBLOOM: The VOP is minimal.

25 THE COURT: The VOP is very minimal. I'm

1 really talking about both cases. I'm going to
2 sentence him on both today.

3 What says the defendant? If you need some
4 time to think about it and talk to your
5 attorney, that's quite all right.

6 DEFENDANT COOPER: I don't think so.

7 THE COURT: You want to agree to the
8 lien?

9 DEFENDANT COOPER: Yes.

10 THE COURT: All right, sir. I'll accept
11 your waiver on the lien. It will be two
12 thousand dollars or less, even if his bill is
13 more. And there's no restitution or if there
14 was restitution, it was previously ordered in
15 the probation case, is that correct? Was there
16 restitution in that case?

17 PROBATION OFFICER: No, sir.

18 THE CLERK: I don't think so. No, Judge,
19 there wasn't any.

20 THE COURT: Okay. Fine. Now, going to
21 the robbery case, the defense has requested
22 more time to file additional motions. I'm
23 going to deny that today. I'm going to go
24 ahead and sentence him today. If you want to
25 file something, you can still file it within

1 the proper time period, but I'm going to go
2 ahead and sentence him today.

3 All right. First of all, the Court has
4 considered the facts brought out at trial, the
5 arguments of counsel, aggravating and
6 mitigating evidence, the presentence
7 investigation, including but not limited to the
8 following facts: In 1995 the defendant was --
9 did plead guilty to aggravated assault with a
10 deadly weapon. We've already talked about the
11 aggravating facts there. He's been convicted
12 of armed robbery in this case. The facts were
13 very aggravating.

14 The Court does find that Mr. Cooper is a
15 danger to this community and it is necessary
16 for the protection of the public that he be
17 sentenced as an habitual violent felony
18 offender and I do so classify you to be an
19 habitual violent felony offender, sir, and at
20 this time I sentence you to 50 years in prison
21 with at least a minimum mandatory of 15 before
22 becoming eligible for any release. Actually
23 that's misleading to you because under the
24 current law you have to serve 85 percent of 50,
25 which is 42 and a half years before you're

1 eligible.

2 Now you have 30 days to appeal in these
3 cases. If you wish to appeal and cannot afford
4 an attorney, one will be appointed for you.

5 Does he want to appeal?

6 MR. ROSENBLoom: Yes, sir, Judge.

7 THE COURT: All right. The Public
8 Defender's Office is appointed to represent him
9 on appeal. Is there a request for
10 restitution?

11 MR. De la RIONDA: Yes, Your Honor, the
12 State would be requesting a restitution order
13 in the amount of 34 dollars. I am showing it
14 to Mr. Rosenbloom to see if he and his client
15 would like to stipulate to the amount and waive
16 hearing in this case.

17 THE COURT: It's the same issue on that.
18 If you feel that 34 dollars is unreasonable,
19 I'll set a hearing. If you want to agree to
20 the 34 dollar restitution order and waive
21 hearing on that, I'll sign it today.

22 (Defense counsel conferring with
23 defendant.)

24 THE COURT: What says the defense?

25 MR. ROSENBLoom: Judge, we really don't

1 agree to that because my client didn't get any
2 of that money.

3 THE COURT: Well, he's been convicted of
4 armed robbery now. If you want to fight over
5 the amount, we'll do that, but if your only
6 argument is that he didn't get the money,
7 that's -- then it would be -- that's not a
8 legal defense to restitution.

9 MR. ROSENBLoom: Judge, he wants a hearing
10 then. He doesn't agree that he owes that money
11 to the victim.

12 THE COURT: All right. We'll set it for a
13 hearing. When does the State want to have a
14 hearing?

15 MS. DODSON: At least a week, Your Honor,
16 to be able to contact Mr. Higginbotham and get
17 him here for a hearing.

18 THE COURT: At least a week. Sometime
19 next week then. All right. We'll set it for
20 hearing on the 18th of December. I tell you
21 what. We've got Pringle on the 17th. Why
22 don't we just make it that same day. The
23 17th. All right. Thank you.

24 Take Mr. Cooper back.

25 MS. DODSON: Your Honor, the -- if Mr.

1 Cooper can hold up a second, I believe the
2 probation case needs to be run concurrent with
3 the armed robbery.

4 THE COURT: All right. It's concurrent.
5 It is concurrent.

6 MS. DODSON: Okay.

7 THE CLERK: Judge, I'm going to show the
8 probation revoked also.

9 THE COURT: All right. The probation is
10 revoked.

11 (Thus the proceedings ended.)

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C E R T I F I C A T E

3 STATE OF FLORIDA)
4 COUNTY OF DUVAL)

6 I, Faye M. Gay, Registered Merit Reporter,
7 Registered Professional Reporter, and Certified
8 Realtime Reporter, do hereby certify that I was
9 personally authorized to and did stenographically
10 record the foregoing proceedings and that the
11 transcript is a true and complete record of my
12 stenograph notes.

15 DATED this _____ day of _____, 1997.

FAYE M. GAY, RMR, RPR, CRR

EXHIBIT B

JUDGMENT AND HABITUAL OFFENDER ORDER

Probation Violator

Community Control Violator

Retrial

Resentence

State of Florida

1

JOHN ROBERT COOPER

Defendant

FILED

DEC 09 1996

Henry W. Cook
STATE CIRCUIT COURT

In the Circuit Court, Fourth Judicial Circuit.

in and for Duval County, Florida

Division CR-D

Case Number 96- 9251-CF-A

Book 8526 Pg 2103

THE END

The defendant, JOHN ROBERT COOPER, being personally before this court
represented by T. Rosenblum, the attorney of record, and the state
represented by D. Dodson, and having

been tried and found guilty by jury/~~by 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)

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).

and pursuant to section 943.325, Florida Statutes, having been convicted of attempts or offenses relating to sexual battery (ch. 794) or lewd and lascivious conduct (ch. 800) the defendant shall be required to submit blood specimens.

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

State of Florida

Case Number 96-9251-CF-A

VOHN ROBERT COOPER

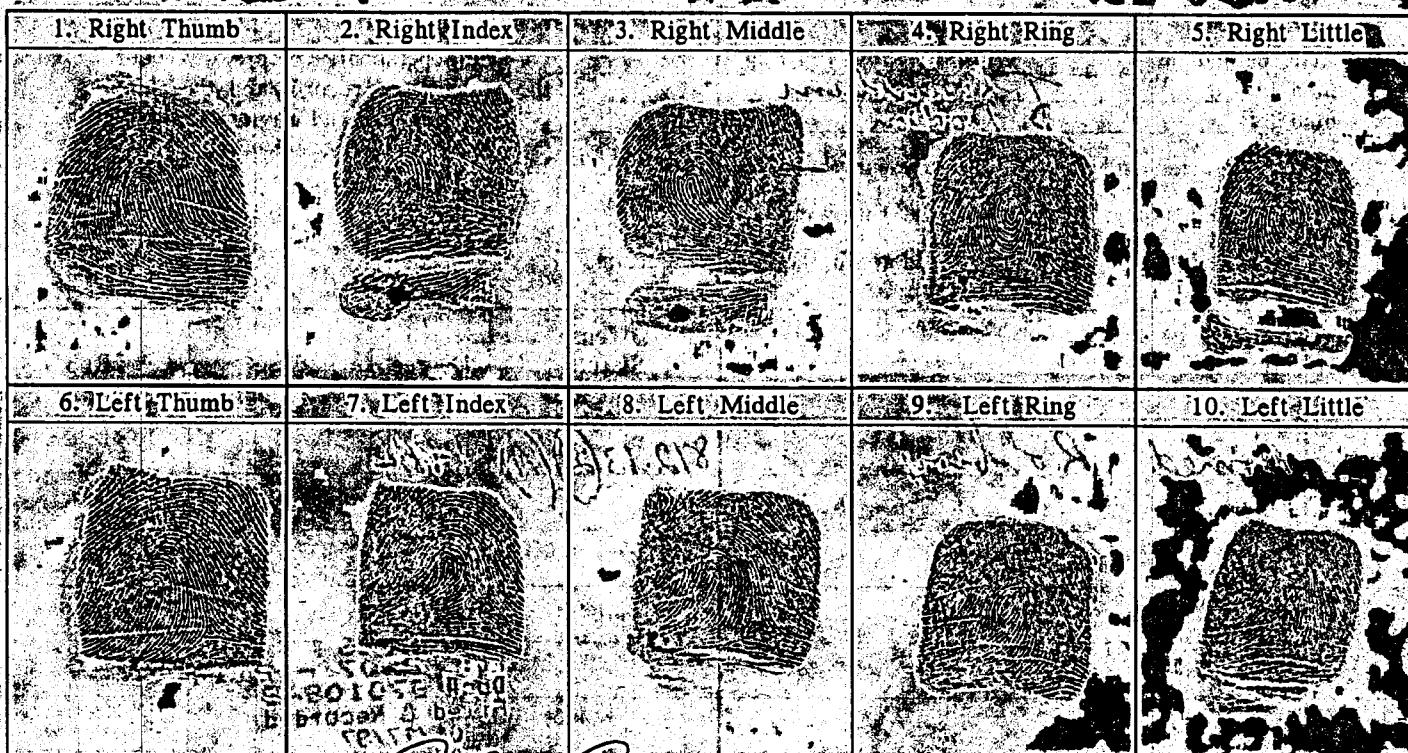
Defendant

Book 8526 Pg 2108

Imposition of Sentence
Stayed and Withheld
(Check if Applicable)

The Court hereby stays and withholds the imposition of sentence as to count(s) _____ and places the Defendant on probation/community control for a period of _____ under the supervision of the Department of Corrections (conditions of probation/community control set forth in separate order.)

FINGERPRINTS OF DEFENDANT



Fingerprints taken by

Name

Title

I HEREBY CERTIFY that the above and foregoing are the fingerprints of the defendant, VOHN ROBERT COOPER, and that they were placed thereon by the defendant in my presence in open court this date.

DONE AND ORDERED in open court in Jacksonville, Duval County, Florida,
this 97th day of Dec., 1996.

Judge
DOC# 97010949

STATE OF FLORIDA

v

JOHN ROBERT COOPER

Defendant

In the Circuit Court, Fourth Judicial Circuit,
in and for Duval County, Florida
Division CR-D
Case Number 96- 9251-CF-A

Book 8526 Pg 2109

CHARGES/COSTS/FEES

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

\$50.00 pursuant to section 960.20, Florida Statutes (Crimes Compensation Trust Fund).

\$3.00 as a court cost pursuant to section 943.25(3), Florida Statutes (Criminal Justice Trust Fund).

\$2.00 as a court cost pursuant to section 943.25(13), Florida Statutes (Criminal Justice Education by Municipalities and Counties).

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).)

\$20.00 pursuant to section 939.015, Florida Statutes (Handicapped and Elderly Security Assistance Trust Fund).

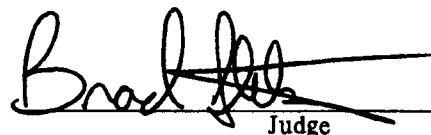
A 10% surcharge in the sum of \$ _____ pursuant to section 775.0836, Florida Statutes (Handicapped and Elderly Security Assistance Trust Fund).

A sum of \$ 200.00 pursuant to section 27.3455, Florida Statutes (Local Government Criminal Justice Trust Fund).

A sum of \$ _____ pursuant to section 939.01, Florida Statutes (Prosecution/Investigative Costs).

A sum of \$ 2,000.00 pursuant to section 27.56, Florida Statutes (~~for defense fees~~) *Apptd. Atty's
notice + hrg. + agrees to amount.* ~~for defense fees~~ *left waives*
Restitution in accordance with attached order.

Other _____

DONE AND ORDERED in open court in Jacksonville, Duval County, Florida, this 9th
day of Dec, 19 96.


Judge

Defendant, VOHN ROBERT COOPER

Case Number 96- 9251-CF-A BTS Number 0008391730

SENTENCE

Page 2110

(As to Count 1)

The defendant, being personally before this court, accompanied by the defendant's attorney of record T. Rosenbaum, and having been adjudicated guilty herein, 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.

(Check one if applicable.)

and the court having on _____ (date) deferred imposition of sentence until this date.

and the court having previously entered a judgment in this case on _____ (date) now resentences 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:

The defendant pay a fine of \$ _____, pursuant to section 775.083, Florida Statutes plus \$ _____ as the 5% surcharge required by 960.25, 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 50 yrs.

Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

If "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 entered herein.

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 supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order entered herein.

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.

OTHER PROVISIONS

Retention of Jurisdiction The court retains jurisdiction over the defendant pursuant to section 947.16(3), Florida Statutes (1983).

Jail Credit It is further ordered that the defendant shall be allowed a total of 126 days as credit for time incarcerated before imposition of this sentence.

Prison Credit It is further ordered that the defendant be allowed credit for all time previously served on this count in the Department of Corrections prior to resentencing.

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

SPECIAL PROVISIONSBOOK NUMBER 8526 PAGE 211

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

Book 8526 Pg 211**Mandatory/Minimum Provisions:**

Firearm It is further ordered that the 3-year minimum imprisonment provisions of section 775.087(2), Florida Statutes, is hereby imposed for the sentence specified in this count.

Drug Trafficking It is further ordered that the _____ mandatory minimum imprisonment provisions of 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 minimum imprisonment provisions of section 893.13(1)(e)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 minimum term of 15 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.

Law Enforcement Protection Act It is further ordered that the defendant shall serve a minimum of _____ years before release in accordance with section 775.0823, Florida Statutes.

Capital Offense 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.

Short-Barreled Rifle, Shotgun, Machine Gun It is further ordered that the 5-year minimum provisions of section 790.221(2), Florida Statutes, are hereby imposed for the sentence specified in this count.

Continuing Criminal Enterprise It is further ordered that the 25-year minimum sentence provisions of section 893.20, Florida Statutes, are hereby imposed for the sentence specified in this count.

Defendant VOHN ROBERT COOPER

Case Number 96- 9251-CF-A

OTHER PROVISIONS

Book 8526 Pg 2112

**Consecutive/
Concurrent
As To Other
Convictions**

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:

In the event the above sentence is to the Department of Corrections, the Sheriff of Duval County, Florida, is hereby ordered and directed to deliver the defendant to the 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.

The defendant in open court was advised of the right to appeal from this sentence by filing notice of appeal within 30 days from this date with the clerk of this court and the defendant's 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

DONE AND ORDERED in open court at Jacksonville, Duval County, Florida, this day of Dec., 1996.

STATE OF FLORIDA

VS.

VOHN COOPER

F I L E D

JAN 07 1997

Douglas W. Cook
CLERK CIRCUIT COURT

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

DIVISION CR - D

CASE NUMBER 96-9251-CF-A

THIS INSTRUMENT
IN COMPUTER
G. R.

SENTENCE
AS HABITUAL VIOLENT FELONY OFFENDER

FACTS OF CRIME

THE DEFENDANT, VOHN COOPER, WAS FOUND GUILTY AFTER TRIAL BY JURY OF THE CRIME OF ARMED ROBBERY.

2113
P#
8526
Book

PROVISIONS FOR EXTENDED TERM OF IMPRISONMENT
FOR HABITUAL VIOLENT FELONY OFFENDER

FLORIDA STATUTE 775.084 PROVIDES FOR AN EXTENDED PRISON SENTENCE IF THE DEFENDANT MEETS THE CRITERIA OF AN HABITUAL VIOLENT FELONY OFFENDER.

FINDINGS BY COURT

UPON HEARING IN OPEN COURT WITH FULL RIGHTS OF CONFRONTATION, CROSS EXAMINATION AND REPRESENTATION BY COUNSEL, THE COURT FINDS BY A PREPONDERANCE OF EVIDENCE PRESENTED THAT:

- A. THE DEFENDANT WAS CONVICTED OF AGGRAVATED ASSAULT, NOVEMBER 1, 1995, CASE # 95-5328 CF-A, IN DUVAL COUNTY.
- B. THAT THE DEFENDANT HAS NOT RECEIVED A PARDON FOR THE VIOLENT FELONY CONVICTION SET FORTH IN PARAGRAPH A ABOVE.
- C. THAT THE VIOLENT FELONY CONVICTION IN PARAGRAPH A ABOVE HAS NOT BEEN SET ASIDE IN ANY POST CONVICTION PROCEEDINGS.
- D. THAT THE CRIME FOR WHICH DEFENDANT IS TO BE SENTENCED HEREIN WAS COMMITTED WITHIN FIVE YEARS OF THE DATE OF THE LAST PRIOR VIOLENT FELONY CONVICTION OR OTHER QUALIFIED OFFENSE OF WHICH HE WAS CONVICTED, OR WITHIN FIVE YEARS OF THE DEFENDANT'S RELEASE, ON PAROLE OR OTHERWISE, FROM A PRISON SENTENCE OR OTHER COMMITMENT IMPOSED AS A RESULT OF A PRIOR CONVICTION FOR A VIOLENT FELONY OR OTHER QUALIFIED OFFENSE.
- E. THAT DEFENDANT MEETS THE CRITERIA OF AN HABITUAL VIOLENT FELONY OFFENDER.

SEPARATE PROCEEDING
FOR HABITUAL VIOLENT FELONY OFFENDER
775.084

THIS COURT HAS CONDUCTED A SEPARATE PROCEEDING TO DETERMINE IF DEFENDANT IS AN HABITUAL VIOLENT FELONY OFFENDER AND SHOULD BE SENTENCED AS SUCH. THAT THE PROCEEDING WAS IN OPEN COURT WITH FULL RIGHT OF CONFRONTATION, CROSS-EXAMINATION AND REPRESENTATION BY COUNSEL. I FIND BY A PREPONDERANCE OF THE EVIDENCE THAT:

- A. A WRITTEN NOTICE OF THE STATE'S INTENTION TO SEEK AN EXTENDED SENTENCE AS AN HABITUAL VIOLENT FELONY OFFENDER UNDER THE PROVISIONS OF F.S. 775.084 WAS SERVED UPON DEFENDANT AND HIS ATTORNEY A SUFFICIENT TIME PRIOR TO THE IMPOSITION OF SENTENCE SO AS TO ALLOW THE PREPARATION OF A SUBMISSION ON BEHALF OF THE DEFENDANT.
- B. THAT DEFENDANT IS NOW TO BE SENTENCED FOR FELONIES WHICH WERE COMMITTED WITHIN FIVE YEARS FROM THE DATE OF THE LAST PRIOR VIOLENT FELONY CONVICTION OR WITHIN FIVE YEARS OF RELEASE OR PAROLE FROM SENTENCE THEREON.
- C. THAT THE DEFENDANT IS AN HABITUAL VIOLENT FELONY OFFENDER AND SHOULD BE SENTENCED TO AN EXTENDED TERM OF IMPRISONMENT FOR THE PROTECTION OF THE PUBLIC.

IN MAKING THE DETERMINATION TO SENTENCE DEFENDANT AS AN HABITUAL VIOLENT FELONY OFFENDER, THE COURT HAS CONSIDERED:

1. THE FACTS AND CIRCUMSTANCES OF THE PRESENT CRIME FOR WHICH DEFENDANT IS TO BE SENTENCED.
2. THE FACT THAT DEFENDANT MEETS THE CRITERIA OF AN HABITUAL VIOLENT FELONY OFFENDER.
3. THE PRESENTENCE INVESTIGATION REPORT.
4. THE PROTECTION OF THE PUBLIC.
5. THE APPROPRIATE PUNISHMENT FOR THE DEFENDANT.
6. THAT PRIOR GUIDELINE SENTENCES HAVE NOT DETERRED HIS CRIMINAL ACTIVITY.

SENTENCE

YOU HAVE PREVIOUSLY BEEN FOUND GUILTY OF ARMED ROBBERY. I HEREBY ADJUDGE YOU, VOHN COOPER, GUILTY.

HAVING PREVIOUSLY DETERMINED BY A PREPONDERANCE OF THE EVIDENCE THAT YOU ARE AN HABITUAL VIOLENT FELONY OFFENDER AND THAT YOU SHOULD BE SENTENCED TO AN EXTENDED TERM (UNDER THE PROVISIONS OF F.S. 775.084) FOR THE PROTECTION OF THE PUBLIC, I SENTENCE YOU AS FOLLOWS:

COUNT I ARMED ROBBERY: I SENTENCE YOU TO BE IMPRISONED FOR 50 YEARS AS AN HABITUAL VIOLENT FELONY OFFENDER.

DEFENDANT SHALL PAY \$200.00 FELONY COURT COSTS, PLUS \$50.00 TO THE CRIME COMPENSATION FUND, PLUS \$3.00 TO THE CRIMINAL JUSTICE TRUST FUND.

UNDER CURRENT FLORIDA LAW, DEFENDANT MUST SERVE AT LEAST 25% OF SENTENCE, BEFORE BEING CONSIDERED FOR RELEASE.

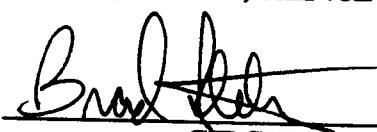
CONDITIONS OF SENTENCE

THIS SENTENCE, IMPOSED UNDER F.S. 775.084 (AS HABITUAL VIOLENT FELONY OFFENDER), IS NOT SUBJECT TO THE PROVISIONS OF F.S. 921.001 (SENTENCING GUIDELINES), NOR SHALL THE PROVISIONS OF F.S. 947 (PAROLE) APPLY TO THIS DEFENDANT.

BECAUSE THIS SENTENCE IS IMPOSED UNDER THE PROVISIONS OF F.S. 775.084 (AS HABITUAL VIOLENT FELONY OFFENDER), THE DEFENDANT SHALL NOT BE ELIGIBLE FOR GAIN-TIME GRANTED BY THE DEPARTMENT OF CORRECTIONS EXCEPT AS PROVIDED FOR IN F.S. 944.275(4)(b).

DEFENDANT IS ADVISED HE HAS THIRTY (30) DAYS FROM TODAY WITHIN WHICH TO TAKE AN APPEAL. SHOULD HE FAIL TO TAKE AN APPEAL WITHIN THIRTY (30) DAYS, THEN HE WAIVES, FORFEITS AND GIVES UP THE RIGHT TO SUCH APPEAL.

DONE AND ORDERED AT JACKSONVILLE, FLORIDA, THIS 7TH DAY OF JANUARY, 1997.



CIRCUIT JUDGE

8 of 8

EXHIBIT C
GUIDELINE SCORESHEET

V. Legal Status Violation = 4 Points

V.

VI. Release Program Violation - 6 Points X Number of Violations (Max 18 Pts) =

VI.

VII. Firearm or Destructive Device = 18 Points

VII.

VIII. Semi-Automatic Weapon or Machine Gun = 25 Points

VIII.

Subtotal Sentence Points.

IX. Enhancements (only one multiplier may be used)

Law Enforcement Protection

 1.5 Multiplier 2.0 Multiplier

Drug Trafficking

 1.5 Multiplier

Enhanced Subtotal Sentence Points IX.

TOTAL SENTENCE POINTS

39.6
36.6

SENTENCE COMPUTATION

- If total sentence points are less than, or equal to 40, the sentencing court may not impose a state prison sentence. The sentencing court may increase total sentence points that are less than or equal to 40 by up to 15 percent and may impose a state prison sentence if the increased total exceeds 40 points.

Total Sentence Points

39.6 36.6

x 1.15 =

42.09 45.54discretionary

Increased Sentence Points

- If total sentence points are greater than 40 and less than or equal to 52 the decision to incarcerate in a state prison is left to the discretion of the court. If total sentence points are greater than 52 the sentence must be a state prison sentence.
- A state prison sentence is calculated by deducting 28 from total or increased sentence points.

Total Or Increased Sentence Pts.

45.54 42.09

minus 28 =

17.54 14.09

State Prison Months

- The sentencing court may increase or decrease state prison months by up to 25 percent except where the total sentence points were less than or equal to 40 but have been increased by up to 15 percent to exceed 40 points. Any state prison sentence must exceed 12 months.

14.09 17.54

State Prison Months

.75 13.15 10.54

Minimum State Prison Months

x 1.25 8.192 17.61

Maximum State Prison Months

TOTAL SENTENCE IMPOSED

Years

Months

Days

State Prison
 County Jail
 Community Control
 Probation

111

- Please designate the particular type of sentence where an enhanced or mandatory sentence imposed.

Habitual Felony Offender Guidelines Aggravated Departure
 Habitual Violent Felony Offender Guidelines Mitigated Departure
 Mandatory pursuant to: s.775.087 s.893.13 s.893.135

Probation Violator

Community Control Violator

Retrial

Resentence

State of Florida

V

JOHN ROBERT COOPER

Defendant

FILED

DEC 09 1996

Henry W. Cook
PROSECUTOR

TELEK CIRCUIT COUNT

In the Circuit Court, Fourth Judicial Circuit,
in and for Duval County, Florida

Division CR-D

Case Number 96- 9251-CF-A

Book 8526 Pg 2103

REFERENCES

The defendant, JOHN ROBERT COOPER, being personally before this court represented by T. Rosenblum, the attorney of record, and the state represented by D. Dodson, and having

been tried and found guilty by jury/~~by 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)

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).

and pursuant to section 943.325, Florida Statutes, having been convicted of attempts or offenses relating to sexual battery (ch. 794) or lewd and lascivious conduct (ch. 800) the defendant shall be required to submit blood specimens.

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

State of Florida

v.

VOHN ROBERT COOPER

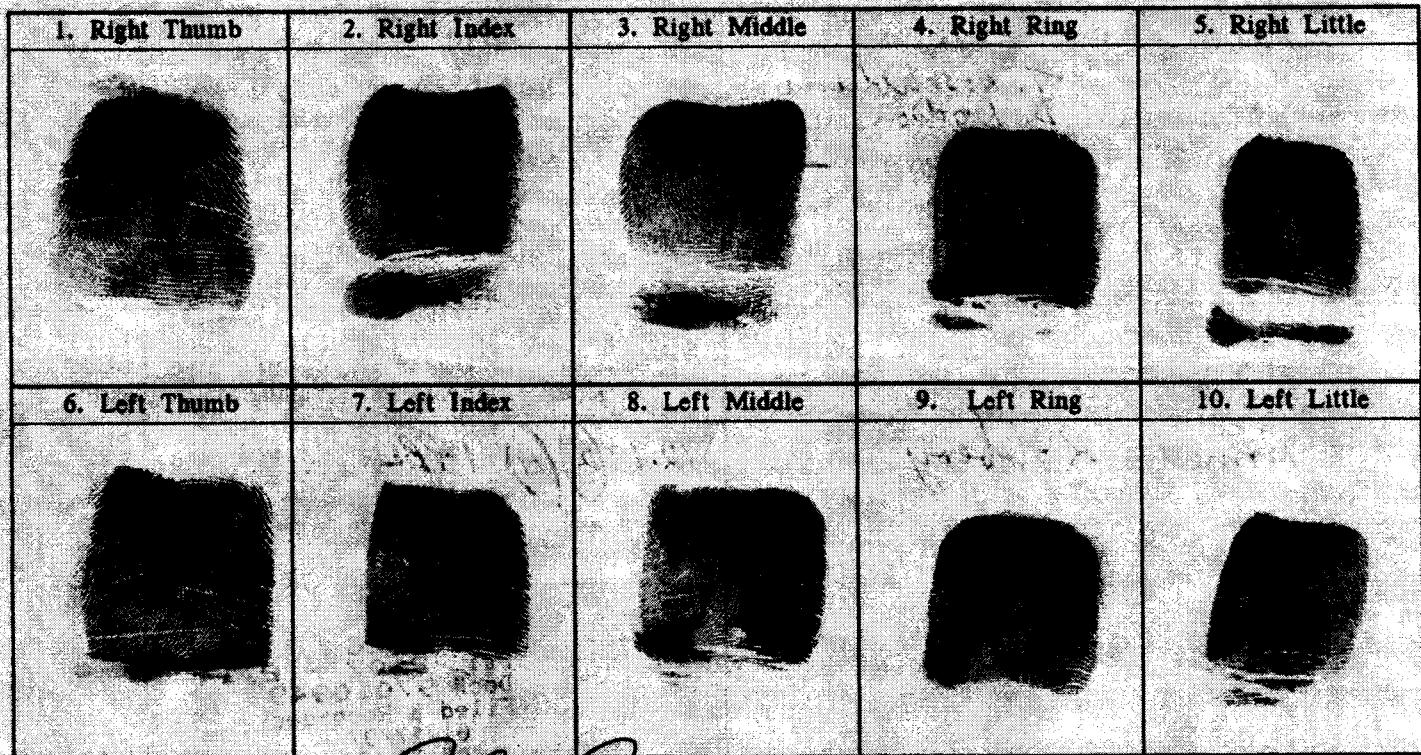
Defendant

Case Number 96- 9251-CF-A

Book 8526 Pg 2108

Imposition of Sentence _____
Stayed and Withheld _____
(Check if Applicable)

The Court hereby stays and withholds the imposition of sentence as to count(s) _____ and places the Defendant on probation/community control for a period of _____ under the supervision of the Department of Corrections (conditions of probation/community control set forth in separate order.)



Fingerprints taken by:

Name

Title

I HEREBY CERTIFY that the above and foregoing are the fingerprints of the defendant, Vohn Robert Cooper, and that they were placed thereon by the defendant in my presence in open court this date.

DONE AND ORDERED in open court in Jacksonville, Duval County, Florida,
this 9th day of Dec., 1996.

DOC# 97010949

STATE OF FLORIDA

v

JOHN ROBERT COOPER

Defendant

In the Circuit Court, Fourth Judicial Circuit,
in and for Duval County, Florida
Division CR-D
Case Number 96- 9251-CF-A

Book 8526 Pg 2109

CHARGES/COSTS/TAXES

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

\$50.00 pursuant to section 960.20, Florida Statutes (Crimes Compensation Trust Fund).

\$3.00 as a court cost pursuant to section 943.25(3), Florida Statutes (Criminal Justice Trust Fund).

\$2.00 as a court cost pursuant to section 943.25(13), Florida Statutes (Criminal Justice Education by Municipalities and Counties).

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).)

\$20.00 pursuant to section 939.015, Florida Statutes (Handicapped and Elderly Security Assistance Trust Fund).

A 10% surcharge in the sum of \$ _____ pursuant to section 775.0836, Florida Statutes (Handicapped and Elderly Security Assistance Trust Fund).

A sum of \$ 200.00 pursuant to section 27.3455, Florida Statutes (Local Government Criminal Justice Trust Fund).

A sum of \$ _____ pursuant to section 939.01, Florida Statutes (Prosecution/Investigative Costs).

A sum of \$ 2,000.00 pursuant to section 27.56, Florida Statutes (~~Florida Defense Fees~~) — *Apptd. Atty's notice + hrg. + agrees to amount.* ~~left. waives~~

Restitution in accordance with attached order.

Other _____

DONE AND ORDERED in open court in Jacksonville, Duval County, Florida, this 9th
day of Dec, 19 96.


Judge

Defendant, VOHN ROBERT COOPER

Case Number 96- 9251-CF-A BTS Number 0008391730

SENTENCE

Date 3/26/86 Pg 210

(As to Count 1)

The defendant, being personally before this court, accompanied by the defendant's attorney of record T. Rosenbaum, and having been adjudicated guilty herein, 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.

(Check one if applicable.)

and the court having on _____ deferred imposition of sentence until this date.

and the court having previously entered a judgment in this case on _____ now resentences 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:

The defendant pay a fine of \$ _____, pursuant to section 775.083, Florida Statutes plus \$ _____ as the 5% surcharge required by 960.25, 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 50 yrs.

Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

If "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 entered herein.

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 supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order entered herein.

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.

OTHER PROVISIONS

Retention of Jurisdiction The court retains jurisdiction over the defendant pursuant to section 947.16(3), Florida Statutes (1983).

Jail Credit It is further ordered that the defendant shall be allowed a total of 126 days as credit for time incarcerated before imposition of this sentence.

Prison Credit It is further ordered that the defendant be allowed credit for all time previously served on this count in the Department of Corrections prior to resentencing.

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

Defendant VOHN ROBERT COOPERCase Number 96- 9251-CF-A**SPECIAL PROVISIONS**BOOK NUMBER 8526 PAGE 211

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

Book 8526 Pg 211**Mandatory/Minimum Provisions:**

Firearm It is further ordered that the 3-year minimum imprisonment provisions of section 775.087(2), Florida Statutes, is hereby imposed for the sentence specified in this count.

Drug Trafficking It is further ordered that the _____ mandatory minimum imprisonment provisions of 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 minimum imprisonment provisions of section 893.13(1)(e)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 minimum term of 15 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.

Law Enforcement Protection Act It is further ordered that the defendant shall serve a minimum of _____ years before release in accordance with section 775.0823, Florida Statutes.

Capital Offense 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.

Short-Barreled Rifle, Shotgun, Machine Gun It is further ordered that the 5-year minimum provisions of section 790.221(2), Florida Statutes, are hereby imposed for the sentence specified in this count.

Continuing Criminal Enterprise It is further ordered that the 25-year minimum sentence provisions of section 893.20, Florida Statutes, are hereby imposed for the sentence specified in this count.

Defendant VOHN ROBERT COOPER

Case Number 96- 9251-CF-A

OTHER PROVISIONS

Book 8526 Pg 2112

Consecutive/ Concurrent As To Other Convictions

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:

In the event the above sentence is to the Department of Corrections, the Sheriff of Duval County, Florida, is hereby ordered and directed to deliver the defendant to the 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.

The defendant in open court was advised of the right to appeal from this sentence by filing notice of appeal within 30 days from this date with the clerk of this court and the defendant's 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

DONE AND ORDERED in open court at Jacksonville, Duval County, Florida, this day of Dec., 1976.



Judge

STATE OF FLORIDA

F I L E D

VS.

VOHN COOPER

JAN 07 1997

Larry W. Cook
CLERK CIRCUIT COURT

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

DIVISION CR - D

CASE NUMBER 96-9251-CF-A

THIS INSTRUMENT
IN COMPUTER
G. R.

**SENTENCE
AS HABITUAL VIOLENT FELONY OFFENDER**

FACTS OF CRIME

THE DEFENDANT, VOHN COOPER, WAS FOUND GUILTY AFTER TRIAL BY JURY OF THE CRIME OF ARMED ROBBERY.

Book 8526
Page 2113

**PROVISIONS FOR EXTENDED TERM OF IMPRISONMENT
FOR HABITUAL VIOLENT FELONY OFFENDER**

FLORIDA STATUTE 775.084 PROVIDES FOR AN EXTENDED PRISON SENTENCE IF THE DEFENDANT MEETS THE CRITERIA OF AN HABITUAL VIOLENT FELONY OFFENDER.

FINDINGS BY COURT

UPON HEARING IN OPEN COURT WITH FULL RIGHTS OF CONFRONTATION, CROSS EXAMINATION AND REPRESENTATION BY COUNSEL, THE COURT FINDS BY A PREPONDERANCE OF EVIDENCE PRESENTED THAT:

- A. THE DEFENDANT WAS CONVICTED OF AGGRAVATED ASSAULT, NOVEMBER 1, 1995, CASE # 95-5328 CF-A, IN DUVAL COUNTY.
- B. THAT THE DEFENDANT HAS NOT RECEIVED A PARDON FOR THE VIOLENT FELONY CONVICTION SET FORTH IN PARAGRAPH A ABOVE.
- C. THAT THE VIOLENT FELONY CONVICTION IN PARAGRAPH A ABOVE HAS NOT BEEN SET ASIDE IN ANY POST CONVICTION PROCEEDINGS.
- D. THAT THE CRIME FOR WHICH DEFENDANT IS TO BE SENTENCED HEREIN WAS COMMITTED WITHIN FIVE YEARS OF THE DATE OF THE LAST PRIOR VIOLENT FELONY CONVICTION OR OTHER QUALIFIED OFFENSE OF WHICH HE WAS CONVICTED, OR WITHIN FIVE YEARS OF THE DEFENDANT'S RELEASE, ON PAROLE OR OTHERWISE, FROM A PRISON SENTENCE OR OTHER COMMITMENT IMPOSED AS A RESULT OF A PRIOR CONVICTION FOR A VIOLENT FELONY OR OTHER QUALIFIED OFFENSE.
- E. THAT DEFENDANT MEETS THE CRITERIA OF AN HABITUAL VIOLENT FELONY OFFENDER.

**SEPARATE PROCEEDING
FOR HABITUAL VIOLENT FELONY OFFENDER
775.084**

THIS COURT HAS CONDUCTED A SEPARATE PROCEEDING TO DETERMINE IF DEFENDANT IS AN HABITUAL VIOLENT FELONY OFFENDER AND SHOULD BE SENTENCED AS SUCH. THAT THE PROCEEDING WAS IN OPEN COURT WITH FULL RIGHT OF CONFRONTATION, CROSS-EXAMINATION AND REPRESENTATION BY COUNSEL. I FIND BY A PREPONDERANCE OF THE EVIDENCE THAT:

- A. A WRITTEN NOTICE OF THE STATE'S INTENTION TO SEEK AN EXTENDED SENTENCE AS AN HABITUAL VIOLENT FELONY OFFENDER UNDER THE PROVISIONS OF F.S. 775.084 WAS SERVED UPON DEFENDANT AND HIS ATTORNEY A SUFFICIENT TIME PRIOR TO THE IMPOSITION OF SENTENCE SO AS TO ALLOW THE PREPARATION OF A SUBMISSION ON BEHALF OF THE DEFENDANT.
- B. THAT DEFENDANT IS NOW TO BE SENTENCED FOR FELONIES WHICH WERE COMMITTED WITHIN FIVE YEARS FROM THE DATE OF THE LAST PRIOR VIOLENT FELONY CONVICTION OR WITHIN FIVE YEARS OF RELEASE OR PAROLE FROM SENTENCE THEREON.
- C. THAT THE DEFENDANT IS AN HABITUAL VIOLENT FELONY OFFENDER AND SHOULD BE SENTENCED TO AN EXTENDED TERM OF IMPRISONMENT FOR THE PROTECTION OF THE PUBLIC.

IN MAKING THE DETERMINATION TO SENTENCE DEFENDANT AS AN HABITUAL VIOLENT FELONY OFFENDER, THE COURT HAS CONSIDERED:

1. THE FACTS AND CIRCUMSTANCES OF THE PRESENT CRIME FOR WHICH DEFENDANT IS TO BE SENTENCED.
2. THE FACT THAT DEFENDANT MEETS THE CRITERIA OF AN HABITUAL VIOLENT FELONY OFFENDER.
3. THE PRESENTENCE INVESTIGATION REPORT.
4. THE PROTECTION OF THE PUBLIC.
5. THE APPROPRIATE PUNISHMENT FOR THE DEFENDANT.
6. THAT PRIOR GUIDELINE SENTENCES HAVE NOT DETERRED HIS CRIMINAL ACTIVITY.

SENTENCE

YOU HAVE PREVIOUSLY BEEN FOUND GUILTY OF ARMED ROBBERY. I HEREBY ADJUDGE YOU, VOHN COOPER, GUILTY.

HAVING PREVIOUSLY DETERMINED BY A PREPONDERANCE OF THE EVIDENCE THAT YOU ARE AN HABITUAL VIOLENT FELONY OFFENDER AND THAT YOU SHOULD BE SENTENCED TO AN EXTENDED TERM (UNDER THE PROVISIONS OF F.S. 775.084) FOR THE PROTECTION OF THE PUBLIC, I SENTENCE YOU AS FOLLOWS:

COUNT I ARMED ROBBERY: I SENTENCE YOU TO BE IMPRISONED FOR 50 YEARS AS AN HABITUAL VIOLENT FELONY OFFENDER.

DEFENDANT SHALL PAY \$200.00 FELONY COURT COSTS, PLUS \$50.00 TO THE CRIME COMPENSATION FUND, PLUS \$3.00 TO THE CRIMINAL JUSTICE TRUST FUND.

UNDER CURRENT FLORIDA LAW, DEFENDANT MUST SERVE AT LEAST 85% OF SENTENCE, BEFORE BEING CONSIDERED FOR RELEASE

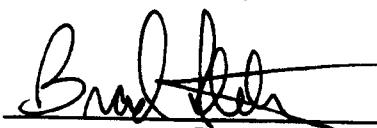
CONDITIONS OF SENTENCE

THIS SENTENCE, IMPOSED UNDER F.S. 775.084 (AS HABITUAL VIOLENT FELONY OFFENDER), IS NOT SUBJECT TO THE PROVISIONS OF F.S. 921.001 (SENTENCING GUIDELINES), NOR SHALL THE PROVISIONS OF F.S. 947 (PAROLE) APPLY TO THIS DEFENDANT.

BECAUSE THIS SENTENCE IS IMPOSED UNDER THE PROVISIONS OF F.S. 775.084 (AS HABITUAL VIOLENT FELONY OFFENDER), THE DEFENDANT SHALL NOT BE ELIGIBLE FOR GAIN-TIME GRANTED BY THE DEPARTMENT OF CORRECTIONS EXCEPT AS PROVIDED FOR IN F.S. 944.275(4)(b).

DEFENDANT IS ADVISED HE HAS THIRTY (30) DAYS FROM TODAY WITHIN WHICH TO TAKE AN APPEAL. SHOULD HE FAIL TO TAKE AN APPEAL WITHIN THIRTY (30) DAYS, THEN HE WAIVES, FORFEITS AND GIVES UP THE RIGHT TO SUCH APPEAL.

DONE AND ORDERED AT JACKSONVILLE, FLORIDA, THIS 7TH DAY OF JANUARY, 1997.



CIRCUIT JUDGE

8 of 8

OCTOBER 1, 1995 PAGE 3.991(a) SENTENCING GUIDELINES SCORESHEET

1. STATE OF SENTENCE 10/09/96 M O D Y Y R	2. PREPARED BY <input type="checkbox"/> DC <input checked="" type="checkbox"/> SAO	3. COUNTY Duval	4. SENTENCING JUDGE Stetson
5. NAME (LAST, FIRST, M.I.) Cooper, John R.	6. DOB M O D Y Y R 01 09 76	7. DC# 8. OBTS# / / / / / / / /	9. RACE <input type="checkbox"/> B <input checked="" type="checkbox"/> W <input type="checkbox"/> OTH 10. GENDER <input checked="" type="checkbox"/> M <input type="checkbox"/> F 11. PLEA <input type="checkbox"/> TRIAL

I. PRIMARY OFFENSE: If Qualifier, please check A S C R (A=Attempt. S=Solicitation. C=Conspiracy. R=Reclassification)

DOCKET# 96-9251 CF-A	FELONY DEGREE 18	F.S. # PBL 812.13(2)(a)/775.087	OFFENSE LEVEL 09	OFFENSE DATE 07 27 96	POINTS M O D Y Y R 192
-------------------------	---------------------	------------------------------------	---------------------	--------------------------	------------------------------

Description: Armed Robbery

(Level = Pts: 1=4, 2=10, 3=16, 4=22, 5=28, 6=36, 7=56, 8=74, 9=92, 10=116)

Prior capital felony triples primary offense points

II. ADDITIONAL OFFENSE(S): Supplemental page attached

DOCKET#	FEL/MM	F.S. #	OFFENSE LEVEL	QUALIFY	CNTS	POINTS
				A S C R		

Description: <u>THIS INSTRUMENT IN COMPUTER</u>	<u>G.P.</u>	<u>FILED</u>	<u>0000</u>	<u>X</u>	<u>=</u>
---	-------------	--------------	-------------	----------	----------

Description: <u>/ / /</u>	<u>FILED</u>	<u>0000</u>	<u>X</u>	<u>=</u>
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Description: <u>/ / /</u>	<u>FILED</u>	<u>0000</u>	<u>X</u>	<u>=</u>
---------------------------	--------------	-------------	----------	----------

(Level = Pts: M=0.2, 1=0.7, 2=1.2, 3=2.4, 4=3.6, 5=5.4, 6=7.0, 7=8.6, 8=10.0, 9=11.6, 10=12.0)

Prior capital felony triples additional offense points

Supplemental page points 11.

III. VICTIM INJURY:

	Number	Total		Number	Total
2nd Degree Murder	240	X _____ = _____	Slight	4	X _____ = _____
Death	120	X _____ = _____	Sex Penetration	80	X _____ = _____
Severe	40	X _____ = _____	Sex Contact	40	X _____ = _____
Moderate	18	X _____ = _____			

III.

IV. PRIOR RECORD: Supplemental page attached

FEL/MM DEGREE	F.S. #	OFFENSE LEVEL	QUALIFY	DESCRIPTION	NUM	POINTS
3°	784.021(1)	6	0000	<u>Aggravated Assault</u>	1	<u>9.0</u>
					X	=
					X	=
					X	=
					X	=
					X	=

(Level = Pts: M=0.2, 1=0.5, 2=0.8, 3=1.6, 4=2.4, 5=3.6, 6=9, 7=14, 8=19, 9=23, 10=29)

Supplemental page points 9.

Effective Date: For offenses committed on or after October 1, 1995

DISTRIBUTION:

White (Original) / Clerk
Green / DC Data
Canary / State Attorney

Pink / Defense Attorney
Goldenrod / DC Offender File

Exhibit D

Page Subtotal 101

V. _____

V. Legal Status Violation = 4 Points

VI. Community Sanction Violation before the court for sentencing
 A) 6 Pts x each such successive violation OR
 B) New Felony Conviction = 12 Pts x each such successive violation

VI. A. _____
B. _____

VII. Firearm/Semi-Automatic or Machine Gun = 18 or 25 Points

VII. _____

VIII. Prior Serious Felony = 30 Pts

VIII. _____

IX. Enhancements (only if the primary offense qualifies for enhancement)

Subtotal Sentence Points. _____

Law Enforcement Protection <input type="checkbox"/> x 1.5 <input type="checkbox"/> x 2.0 <input type="checkbox"/> x 2.5	Drug Trafficking <input type="checkbox"/> x 1.5	Grand Theft Motor Vehicle <input type="checkbox"/> x 1.5
--	--	---

Enhanced Subtotal Sentence Points IX. _____

TOTAL SENTENCE POINTS 101

SENTENCE COMPUTATION

• 40 or less total sentence points mandates a non state prison sanction.
 Sentence points less than or equal to 40 may be increased by 15 percent.

Total Sentence Points	x 1.15 =	Increased Sentence Points
-----------------------	----------	---------------------------

• If total or increased sentence points are greater than 40 or equal to 52, state incarceration is discretionary. A total of more than 52 total or increased sentence points must be a state prison sentence. A life sentence may be imposed at the discretion of the court if total sentence points are 363 or greater.

Total/Increased Points	minus 28 =	State Prison Months
------------------------	------------	---------------------

• The sentencing court may increase or decrease prison months by up to 25 percent except where total sentence points were originally increased by 15 percent to exceed 40 points. Any state prison sentence must exceed 12 months.

State Prison Months	x .75 =	54.75
	Min. Prison Months	
	x 1.25 =	91.25
	Max. Prison Months	

TOTAL SENTENCE IMPOSED

State Prison Life
 County Jail Time Served
 Community Control
 Probation

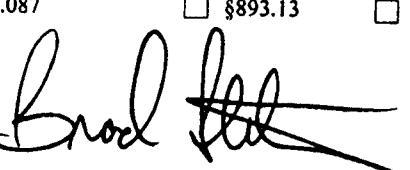
Years <u>50 w/15y MM</u>	Months	Days
_____	_____	_____
_____	_____	_____
_____	_____	_____

Has more than one scoresheet
been used at sentencing?
Yes _____ No _____

• Please designate the particular type of sentence where an enhanced or mandatory sentence imposed.

Habitual Felony/Habitual Violent Offender
 Violent Career Criminal
 Mandatory pursuant to: \$775.087

Guideline Aggravated Departure
 Guideline Mitigated Departure
 §893.13 §893.135

JUDGE'S SIGNATURE 

DISTRIBUTION:

White (Original) / Clerk
 Green / DC Data
 Canary / State Attorney

Pink / Defense Attorney
 Goldenrod / DC Offender File

STATE OF FLORIDA

VS.

VOHN COOPER

FILED	
NOV 15 1996	
<i>Henry W. Cook</i> CLERK CIRCUIT COURT	
VERDICT: ARMED ROBBERY	THIS INSTRUMENT IN COMPUTER D. G.

1. WE, THE JURY, FIND THE DEFENDANT GUILTY OF ROBBERY, AS CHARGED IN THE INFORMATION.
 IN THE COURSE OF COMMITTING THE ROBBERY, THE DEFENDANT CARRIED A FIREARM.
 IN THE COURSE OF COMMITTING THE ROBBERY, THE DEFENDANT HAD NO FIREARM.
2. WE, THE JURY, FIND THE DEFENDANT GUILTY OF AGGRAVATED ASSAULT.
3. WE, THE JURY, FIND THE DEFENDANT GUILTY OF ASSAULT.
4. WE, THE JURY, FIND THE DEFENDANT GUILTY OF PETIT THEFT.
5. WE, THE JURY, FIND THE DEFENDANT NOT GUILTY.

SO SAY WE ALL.

DONE AT JACKSONVILLE, DUVAL COUNTY, FLORIDA.

Scott R. Manning
FOREPERSON

11/15/96
DATE

STATE ATTORNEY NO.: 29156

4
9-16
IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL
CIRCUIT, IN AND FOR DUVAL COUNTY, FLORIDA

CASE NO.: 96-9251 CF

DIVISION: CR-D

STATE OF FLORIDA

VS.

VOHN ROBERT COOPER

THIS INSTRUMENT
IN COMPUTER

D. G.

FILED

SEP 09 1996

Henry W. Cook
CLERK CIRCUIT COURT

NOTICE OF INTENT TO CLASSIFY
DEFENDANT AS A HABITUAL VIOLENT FELONY OFFENDER

The State of Florida, by and through the undersigned Assistant State Attorney, gives notice to the Defendant that the State of Florida will seek an enhanced penalty against said Defendant for the crime(s) charged in the above-styled case pursuant to Section 775.084, Florida Statutes. The State will rely on the Defendant's prior conviction and sentence for the violent felony crime of Aggravated Assault, on the 1st day of November, 1995, in the Circuit Court, in and for the County of Duval, State of Florida.

The State, in conformity with Section 775.084, Florida Statutes, will seek to have the Defendant sentenced to life imprisonment without eligibility for release for fifteen (15) years.

Once the Defendant is classified as a habitual violent felony offender, the Defendant will not be eligible for parole or for the award of gain time on this sentence, nor will the State of Florida Sentencing Guidelines apply.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Notice of Intent to Classify Defendant as a Habitual Violent Felony Offender has been furnished, by hand, to both the Defendant and Attorney for Defendant in the Circuit Court of the Fourth Judicial Circuit, in and for Duval County, Florida, on this 9th day of August, 1996.

September

HARRY L. SHORSTEIN
STATE ATTORNEY

By:

Patricia McRae, for
George Z. Bateh
Bar Number 160423
Assistant State Attorney

GZB/s

FILED

State of Florida
vs

VOHN COOPER
Defendant

NOV 08 1995

Henry W. Cooks
CLERK CIRCUIT COURT

In the Circuit Court
of Duval County, Florida
Case Number 95-5328CF CR-A

ORDER OF PROBATION

This cause coming on this day to be heard before me, and you, the defendant VOHN COOPER being now present before me, and you having

(check one)

entered a plea of guilty to
 entered a plea of nolo contendere to
 been found guilty by jury verdict of
 been found guilty by the court trying the case without a jury of
the offense(s) of CT. 1 - AGGRAVATED ASSAULT WITH DEADLY WEAPON

Y. R.
THIS INSTRUMENT
IN COMPUTER

SECTION 1: Judgment of Guilt

The court hereby adjudges you to be guilty of the above offense(s).

Now, therefore, it is ordered and adjudged that the imposition of sentence is hereby withheld and that you be placed on probation for a period of _____ under the supervision of the Department of Corrections, subject to Florida law.

SECTION 2: Order Withholding Adjudication

Now, therefore, it is ordered and adjudged that the adjudication of guilt is hereby withheld and that you be placed on probation for a period of ONE YEAR under the supervision of the Department of Corrections, subject to Florida law.

SECTION 3: Probation During Portion of Sentence

It is hereby ordered and adjudged that you be adjudicated guilty of the above offense(s) and

committed to the Department of Corrections

confined in the County Jail

for a term of _____ with credit for _____ jail time. After you have served _____ of the term you shall be placed on probation for a period of _____ under the supervision of the Department of Corrections, subject to Florida law.

confined in the County Jail

for a term of _____ with credit for _____ jail time, as a special condition of probation.

FILED

DEC 9 1996

Henry W. Cooks
CLERK CIRCUIT COURT

Page 1 of 3

THIS INSTRUMENT
IN COMPUTER
G. R.

Filed in Evidence
as

State's

1/2-9-96

Exhibit 1
Case 96-9251CF-A

It is further ordered that you shall comply with the following general and special conditions of probation during the probationary period:

- (1) Not later than the fifth day of each month, you will make a full and truthful report to your officer on the form provided for that purpose.
- (2) You will not change your residence or employment or leave the county of your residence without first procuring the consent of your officer.
- (3) You will not possess, carry or own any firearm. You will not possess, carry or own any weapon without first procuring the consent of your officer.
- (4) You will live without violating any law. A conviction in a court of law shall not be necessary in order for such a violation to constitute a violation of your probation.
- (5) You will not associate with any person engaged in any criminal activity.
- (6) You will not use intoxicants to excess or possess any drugs or narcotics unless prescribed by a physician. Nor will you visit places where intoxicants, drugs or other dangerous substances are unlawfully sold, dispensed or used.
- (7) You will work diligently at a lawful occupation, advise your employer of your probationary status and support any other dependents to the best of your ability, as directed by your officer.
- (8) You will promptly and truthfully answer all inquiries directed to you by the court or the officer, and allow your officer to visit in your home, at your employment site or elsewhere, and you will comply with all instructions your officer may give you.
- (9) You will report in person within 72 hours of your release from confinement to the probation officer in _____ County, Florida, unless otherwise instructed by your officer. (This condition applies only if section 3 on the previous page is checked.) Otherwise, you must report immediately to the probation officer located at _____.
- (10) You will pay the following monetary obligations (plus a 4 percent surcharge) to the Department of Corrections, as directed by your Probation Officer by and through the Department of Corrections:

Felony court costs in the amount of \$200.00, \$50.00 to the Crimes Compensation Trust Fund and \$3.00 to the Department of Revenue for deposit in the Additional Court Cost Clearing Trust Fund at a minimum rate of \$60.00 per month.

Cost of Supervision at a rate of \$40.00 for each month of supervision.

The total amount due for all monetary obligations, plus a 4 percent surcharge, shall be paid in accordance with the priority schedule established by Administrative Order 94-22, issued by the Chief Judge of the Fourth Judicial Circuit.

SPECIAL CONDITIONS

- (11) You will perform 50 hours of community service, at a minimum rate of 10 hours per month, on a regular monthly schedule as directed by your Probation Officer by and through the Department of Corrections.

Defendant JOHN COOPER

Case Number 95-5328CF CR-A

(12) Your probation will terminate upon completion of all special conditions, providing you are in compliance with all the general conditions of your probation after six months.

You are hereby placed on notice that the Court may at any time rescind or modify any of the conditions of your probation, or may extend the period of probation as authorized by law, or may discharge you from further supervision. If you violate any of the conditions of your probation, you may be arrested and the court may revoke your probation, adjudicate you guilty if adjudication was withheld, and impose any sentence which it might have imposed before placing you on probation or require you to serve the balance of said sentence.

It is further ordered that when you have been instructed as to the conditions of probation, you shall be released from custody if you are in custody, and if you are at liberty on bond, the sureties thereon shall stand discharged from liberty. (This paragraph applies only if section 1 or 2 is checked.)

It is further ordered that the clerk of this court file this order in the Clerk's Office and provide certified copies of same to the officer for use in compliance with the requirements of law.

DONE AND ORDERED, this the 1ST day of NOVEMBER, 1995.

Frank. Kild

Judge

I acknowledge receipt of a certified copy of this order. The conditions have been explained to me and I agree to abide by them.

Date _____ Probationer _____

Instructed by _____

Original: .
Certified Copies:

Clerk of the Court
Probationer
Florida Department of Corrections
Probation and Parole Services

/kld

Page 3 of 3

STATE OF FLORIDA

DUVAL COUNTY

I, UNDERSIGNED, Clerk of the Circuit & County Courts, Duval County, Florida, DO HEREBY CERTIFY the within and foregoing is a true and correct copy of the original as it appears on record and file in the office of the Clerk of Circuit & County Courts of Duval County, Florida;

WITNESS my hand and seal of Clerk of Circuit & County Courts at Jacksonville, Florida, this the 11th day of Dec A.D. 1926

HENRY W. COOK
Clerk, Circuit and County Courts
Duval County, Florida

D. A. Blount
Deputy Clerk

M A N D A T E

From

DISTRICT COURT OF APPEAL OF FLORIDA
FIRST DISTRICT

No 55

FILED

JAN 02 1998

Henry W. Cook
CLERK CIRCUIT COURT

To the Honorable Judges of the Circuit Court for Duval County

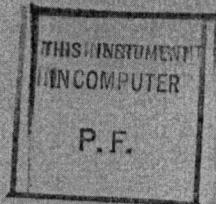
WHEREAS, in that certain cause filed in this Court styled:

VOHN ROBERT COOPER

Case No. 97-152

v.

STATE OF FLORIDA



Lower Tribunal Case No. 96-9251-CF-A

CF-1

The attached opinion was issued on December 10, 1997.

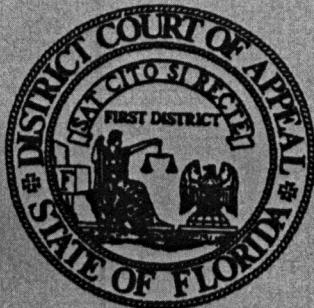
YOU ARE HEREBY COMMANDED that further proceedings, if required, be had in accordance with
said opinion, the rules of Court, and the laws of the State of Florida.

WITNESS the Honorable Edward T. Barfield, Chief Judge

of the District Court of Appeal of Florida, First District,

and the Seal of said Court done at Tallahassee, Florida,

on this 30th day of December 1997.



Jon S. Wheeler

JON S. WHEELER, Clerk
District Court of Appeal of Florida, First District

Exhibit H

VOHN ROBERT COOPER,

Appellant,

v.

STATE OF FLORIDA,

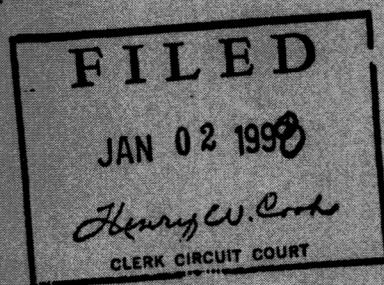
Appellee.

IN THE DISTRICT COURT OF APPEAL

FIRST DISTRICT, STATE OF FLORIDA

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

CASE NO. 97-152



Opinion filed December 10, 1997.

An appeal from the Circuit Court for Duval County.
Brad Stetson, Judge.

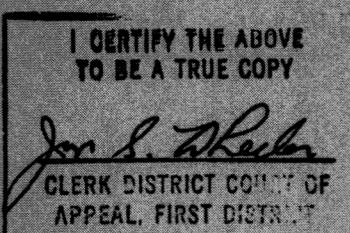
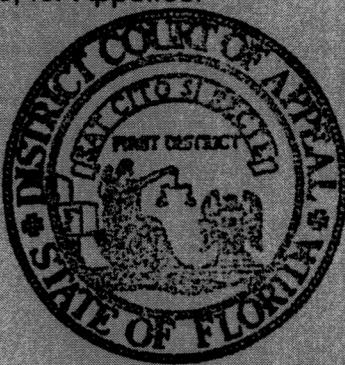
Nancy A. Daniels, Public Defender, and Michael A. Wasserman, Assistant Public
Defender, Tallahassee, for Appellant.

Robert A. Butterworth, Attorney General, and Trina Kramer, Assistant Attorney
General, Tallahassee, for Appellee.

PER CURIAM.

AFFIRMED.

MICKLE, LAWRENCE and PADOVANO, JJ., CONCUR.



APPENDIX

B

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D21-1453

VOHN ROBERT COOPER,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Duval County.
Mark Borello, Judge.

March 15, 2022

PER CURIAM.

AFFIRMED.

ROBERTS, WINOKUR, and M.K. THOMAS, JJ., concur.

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

William Mallory Kent of Kent & McFarland, Jacksonville, for Appellant.

Ashley Moody, Attorney General, Tallahassee, for Appellee.

M A N D A T E

from

FIRST DISTRICT COURT OF APPEAL STATE OF FLORIDA

This case having been brought to the Court, and after due consideration the Court having issued its opinion;

YOU ARE HEREBY COMMANDED that further proceedings, if required, be had in accordance with the opinion of this Court, and with the rules of procedure, and laws of the State of Florida.

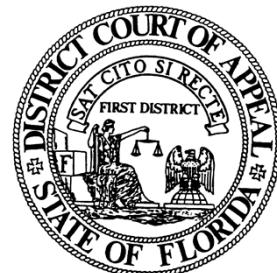
WITNESS the Honorable Lori S. Rowe, Chief Judge, of the District Court of Appeal of Florida, First District, and the seal of said Court at Tallahassee, Florida, on this day.

April 01, 2022

Vohn Robert Cooper v.
State of Florida

DCA Case No.: 1D21-1453
Lower Tribunal Case No.: 16-1996-CF-9251

Kristina Samuels
KRISTINA SAMUELS, CLERK
District Court of Appeal of Florida, First District



gl

Mandate and opinion to: Hon. Jody Phillips, Clerk

cc: (without attached opinion)

Hon. Ashley Moody, AG

William Mallory Kent