

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

WILLIAM DUSTIN POOLE,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

**On Petition for Writ of Certiorari
to the Florida Second District Court of Appeal**

**APPENDIX TO
PETITION FOR WRIT OF CERTIORARI**

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COUNSEL FOR THE PETITIONER

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DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

WILLIAM DUSTIN POOLE,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

No. 2D21-3952

August 3, 2022

Appeal pursuant to Fla. R. App. P.9.141(b)(2) from the Circuit Court for Polk County; Donald Jacobsen, Judge.

Michael Ufferman, Michael Ufferman Law Firm, P.A, Tallahassee, for Appellant.

PER CURIAM.

Affirmed.

KKOUZAM, BLACK, and LUCAS, JJ., Concur.

Opinion subject to revision prior to official publication.

**IN THE CIRCUIT COURT
FOR THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA**

STATE OF FLORIDA,

Plaintiff,

v.

CASE NO.: CF05-007943-XX

WILLIAM POOLE,

Defendant.

ORDER DENYING DEFENDANT'S MOTION TO CORRECT ILLEGAL SENTENCE

THIS MATTER is before the Court upon Defendant's *Motion to Correct Illegal Sentence*, filed pursuant to Fla. R. Crim. P. 3.800 on November 10, 2021. After review of the Motion, court file, and applicable law, the Court finds as follows:

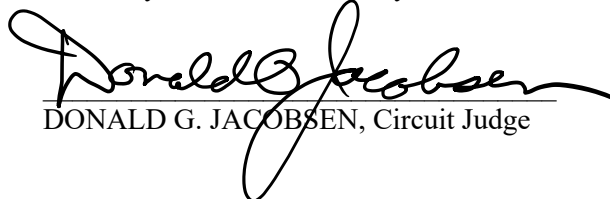
The Defendant argues that his life sentence without the possibility of parole should be considered illegal pursuant to *Graham v. Florida*, 560 U.S. 48 (2010) as the Defendant was only eighteen years of age when he committed the offense charged. Defendant urges this Court to adopt a ruling made in an Illinois Court that a nineteen-year old sentenced to a mandatory life sentence violated the Eight Amendment.

As the Defendant was not technically a juvenile at the time the offense was committed, his life sentence does not run afoul of Graham. The Court finds that the Defendant's sentence is legal.

Based on the above, it is **ORDERED AND ADJUDGED** that Defendant's *Motion* is **DENIED**.

Defendant has thirty (30) days to appeal this order to the Second District Court of Appeal.

DONE AND ORDERED in Bartow, Polk County, Florida this 17th day of November, 2021.


DONALD G. JACOBSEN, Circuit Judge

cc:

-- Victoria J. Avalon, Esq., A.S.A.

-- Michael Ufferman, Esq., Attorney for Defendant, 2022-1 Raymond Diehl Rd., Tallahassee, FL 32308

DGJ/abw

I CERTIFY the foregoing is a true copy of the original as it appears on file in the office of the Clerk of the Circuit Court of Polk County, Florida, and that I have furnished copies of this order and its attachments to the above-listed on this ____ day of _____, 2021.

CLERK OF THE CIRCUIT COURT

By: _____

1 IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT,
2 IN AND FOR POLK COUNTY, FLORIDA

3 STATE OF FLORIDA,) Case No: CF05-007943-XX
4 Plaintiff, Appellee,)
5 vs.)
6 WILLIAM D. POOLE,)
7 Defendant, Appellant,)

ORIGINAL

10 Sentencing Hearing

11 January 4, 2007

12 Attorneys:

13 Hardy Pickard, Esquire

14 For the State

16 Julia Williamson, Esquire

17 For the Defendant

19 **RECEIVED**
20 CRIMINAL APPEAL SECTION

21 MAR 01 2007

22 RICHARD M. WEISS
23 CLERK CIRCUIT COURT

25 OFFICE OF THE ELECTRONIC COURT REPORTER
(863) 534-4009

1 of my life or a long time of my life. Because
2 there is, things I want to do uh, and be
3 successful you know what I'm saying. That's all I
4 really want to say.

5 THE COURT: Okay. Okay, Mr. Poole it was
6 pain your mother tremendously and your great
7 grandparents tremendously to have to in Court here
8 at the beginning of 2007 and seeing you their son
9 and great grandson having to face a sentence for
10 the conduct and the actions that you committed.

11 THE DEFENDANT: Yes, Sir.

12 THE COURT: And I don't know if you feel any
13 of that pain or not. But, I think you have seen
14 the pain that your mother is experiencing and that
15 she will continue to experience for a long, long
16 time. But, that's something that you will have to
17 live with and that's part of the sentence that I
18 don't even have anyway of touching that. That's
19 something that is just created by your own
20 behavior and your own conduct. It doesn't have
21 anything to do with the legal system it is just
22 something that exists in reality and in morality
23 that you have created that for your own mother in
24 your own great grandparents.

25 Okay, Mr. Poole I will adjudicated you as to

1 Count 1 and as to Count 3. As to Count 3, I will
2 sentence you to time served in the County Jail,
3 give you credit for the time that you have been in
4 the County Jail. If that excess more than 12
5 months then you won't get more than 12 months, you
6 just get 12 months credit. As to Count 1, I will
7 sentence you to life imprisonment. I will impose
8 fine and court cost in the amount of \$373.00,
9 \$201.00 to the Violent Trust Fund Fee under
10 938.08, \$151.00 Crisis Trust Fund Fee under
11 938.085. You were court appointed on this matter?

12 MS WILLIAMSON: Yes, Sir I was.

13 THE COURT: Impose the \$40.00 application fee
14 for court appointed attorney and a \$300.00 court
15 appointed attorney's fee. I will also impose the
16 investigative cost to be paid to the Polk County
17 Sheriff's Department in the amount of \$2142.00 and
18 that will be joint and several with your co-
19 defendants, Deel, Luesing and Welch. Those are
20 all due and payable within 1 year of release from
21 Florida State Prison should you ever be released
22 from Florida State Prison. You got 30 days to
23 file an appeal, good luck.

24 THE BAILIFF: Step right over here.

25 MS WILLIAMSON: And Your Honor, we will

1 filing an appeal and I will file appropriate
2 paperwork requesting the Public Defender's Office
3 to be appointed in the Notice, uh, everything that
4 I am required to file by law.

5 THE COURT: Very well.

6 (Hearing Concluded)
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CERTIFICATE

STATE OF FLORIDA

COUNTY OF POLK

I, Judy Gay Ledford, a digital court reporter for the Tenth Judicial Circuit, do hereby certify that I was authorized to and did transcribe the foregoing proceedings and that the transcript is a true and correct record of said proceedings.

Dated this 28th day of February, 2007.


Judy Gay Ledford
Digital Court Reporter
Tenth Judicial Circuit


<http://www.dc.state.fl.us/index.html>

Florida Department of Corrections
<http://www.dc.state.fl.us/index.html>

"Inspiring Success by Transforming One Life at a Time"



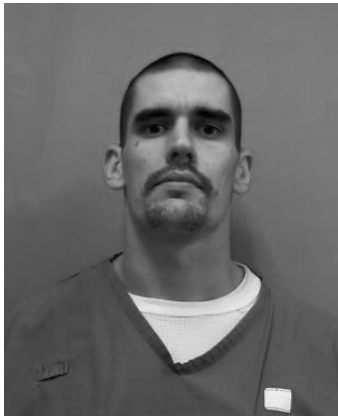
Ron DeSantis, Governor
 Ricky D. Dixon, Secretary

[Offender Search \(/OffenderSearch/InmateInfoMenu.aspx\)](#)
 [Visit an Inmate \(/ci/visit.html\)](#)
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[Probation Services \(/cc/index.html\)](#)
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 [Newsroom \(/comm/index.html\)](#)
[Statistics \(/pub/index.html\)](#)
 [Partners \(mailto:development@fdc.myflorida.com\)](#)

Corrections Offender Network

Inmate Population Information Detail

(This information was current as of 11/27/2022)



DC Number: H26123
Name: POOLE, WILLIAM D
Race: WHITE
Sex: MALE
Birth Date: 01/17/1987
Initial Receipt Date: 01/17/2007
Current Facility: [LIBERTY C.I. \(http://prod.fdc-wpws001.fdc.myflorida.com/org/facilitydir.html#LIBERTY.C.I.\)](http://prod.fdc-wpws001.fdc.myflorida.com/org/facilitydir.html#LIBERTY.C.I.)
Current Custody: CLOSE
Current Release Date: SENTENCED TO LIFE



<https://www.vinelink.com/vinelink/servlet/SubjectSearch?siteID=10000&agency=900&offenderID=H26123>

[Visiting Request Form - Part 1 \(http://prod.fdc-wpws001.fdc.myflorida.com/ci/visit/120.pdf\)](http://prod.fdc-wpws001.fdc.myflorida.com/ci/visit/120.pdf)

[Visiting Request Form - Part 2 \(http://prod.fdc-wpws001.fdc.myflorida.com/ci/visit/DC6-111B.pdf\)](http://prod.fdc-wpws001.fdc.myflorida.com/ci/visit/DC6-111B.pdf)

[How to Apply for Visitation \(http://prod.fdc-wpws001.fdc.myflorida.com/ci/visit.html\)](http://prod.fdc-wpws001.fdc.myflorida.com/ci/visit.html)

Aliases:

WILLIAM D POOLE, WILLIAM D. POOLE, WILLIAM DUSTIN POOLE, PRIMO

Current Prison Sentence History:

Offense Date	Offense	Sentence Date	County	Case No.	Prison Sentence Length
10/05/2005	KIDNAP, ASSAULT OR TERRORIZE	01/04/2007	POLK	0507943	SENTENCED TO LIFE

Note: The offense descriptions are truncated and do not necessarily reflect the crime of conviction. Please refer to the court documents or the Florida Statutes for further information or definition.

Incarceration History:

Date In-Custody	Date Out-Custody
01/17/2007	Currently Incarcerated

First

Previous

Next

Last

Return to List

New Search

Record: 2 of 2

The Florida Department of Corrections updates this information regularly, to ensure that it is complete and accurate, however this information can change quickly. Therefore, the information on this site may not reflect the true current location, status, release date, or other information regarding an inmate.

This database contains public record information on felony offenders sentenced to the Department of Corrections. This information only includes offenders sentenced to state prison or state supervision. Information contained herein includes current and prior offenses. Offense types include related crimes such as attempts, conspiracies and solicitations to commit crimes. Information on offenders sentenced to county jail, county probation, or any other form of supervision is not contained. The information is derived from court records provided to the Department of Corrections and is made available as a public service to interested citizens. The Department of Corrections makes no guarantee as to the accuracy or completeness of the information contained herein. Any person who believes information provided is not accurate may contact the Department of Corrections.

For questions and comments, you may contact the Department of Corrections, Bureau of Classification and Central Records, at (850) 488-9859 or go to [Frequently Asked Questions About Inmates for more information](#) (<http://prod.fdc-wpws001.fdc.myflorida.com/ci/index.html>). This information is made available to the public and law enforcement in the interest of public safety.

Search Criteria: (/OffenderSearch/search.aspx?TypeSearch=AI) Last Name: poole First Name: william Search Aliases: YES Offense Category: County of Commitment: ALL Current Location: ALL

[Return to Corrections Offender Information Network \(./OffenderSearch/InmateInfoMenu.aspx \)](#)

About Us
(<http://www.dc.state.fl.us/about.html>)

As Florida's largest state agency, and the third largest prison system in the country, FDC employs 24,000 members, incarcerates approximately 80,000 inmates and supervises nearly 146,000 offenders in the community.

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(<http://www.dc.state.fl.us/volunteer/index.html>)

[File a Complaint](#)
(<http://www.dc.state.fl.us/apps/IGcomplaint.asp>)

[Organization](#)
(<http://www.dc.state.fl.us/org/orgchart.html>)

[Regulatory Plan](#)
(<http://www.dc.state.fl.us/pub/regulatory/2017-2018.pdf>)

[Victim Services](#)
(<http://www.dc.state.fl.us/vict/index.html>)

[Inmate and Offender Programming](#)
(<http://www.dc.state.fl.us/development/index.html>)

[Corrections Foundation](#)
(<https://www.correctionsfoundation.org/>)

[Parole Information](#)
(<https://www.fcor.state.fl.us/index.shtml>)

[Inspector General](#)
(<http://www.dc.state.fl.us/ig/index.html>)

[Prison Rape Elimination Act](#)
(<http://www.dc.state.fl.us/PREA/index.html>)

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