

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

TIMOTHY JAMES HAHN,
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**

MICHAEL UFFERMAN
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Tallahassee, Florida 32308
(850) 386-2345
FL Bar No. 114227
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COUNSEL FOR THE PETITIONER

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DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

TIMOTHY JAMES HAHN,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

No. 2D22-3583

April 12, 2023

Appeal pursuant to Fla. R. App. P. 9.141(b)(2) from the Circuit Court for Pasco County; Gregory G. Groger, Judge.

Timothy James Hahn, pro se.

PER CURIAM.

Affirmed.

KELLY, LaROSE, and ATKINSON, JJ., Concur.

Opinion subject to revision prior to official publication.

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT OF
THE STATE OF FLORIDA IN AND FOR PASCO COUNTY
CRIMINAL DIVISION**

STATE OF FLORIDA

v.

TIMOTHY JAMES HAHN,
SPN: 00435099, Defendant. _____ /

Case No. 03-3887CFAES
UCN: 512003CF003887A000ES
Case No. 03-5288CFAES
UCN: 512003CF005288A000ES
Section: 1

ORDER DENYING DEFENDANT'S MOTION TO CORRECT ILLEGAL SENTENCE

THIS CAUSE came before the Court on Defendant's Motion to Correct Illegal Sentence, filed on July 10, 2019, pursuant to Florida Rule of Criminal Procedure 3.800(a).¹ After reviewing the motion, the record, and applicable law, this Court finds as follows:

On September 9, 2003, the State charged Defendant with one count of murder in the first degree in case number 03-3887CFAES. *See Indictment*. On December 8, 2003, Defendant was charged with attempted murder in the first degree in case number 03-5288CFAES. *See Felony Information*. On November 30, 2005, the Defendant was convicted after a jury trial of the lesser charges of murder in the second degree and of attempted murder in the second degree. Thereafter, Defendant was sentenced to life imprisonment for murder in case no. 03-3887CFAES, and to 30 years' imprisonment for attempted murder in case no. 03-5288CFAES, the sentences to run concurrent. *See Judgments and Sentences*. The Defendant filed a direct appeal, and the Second District Court of Appeal affirmed. The mandate issued on October 3, 2007. *See Opinion and Mandate*. On August 22, 2014, Defendant was resentenced to 15 years' imprisonment for the attempted murder charge, in case no. 03-5288CFAES.

Pursuant to Florida Rule of Criminal Procedure 3.800(a), a court may correct a defendant's illegal sentence at any time. *See Fla. R. Crim. P. 3.800(a)*. A sentence is illegal if it is one that no judge could have possibly imposed for the crime charged under the entire body of sentencing law under any set of factual circumstances. *Carter v. State*, 786 So. 2d 1173, 1178 (Fla. 2001). The burden is on the party seeking relief to show why the sentence is illegal. *Prieto v. State*, 627 So.

¹ The Court did not become aware of the pending motion until after Defendant filed a Notice of Inquiry on April 28, 2022.

2d 20, 21 (Fla. 2d DCA 1993). If correcting the error would yield the same outcome as the original sentence, then the error is considered harmless. Gibbons v. State, 543 So. 2d 860, 861 (Fla. 2d DCA 1989). In his motion, Defendant raises four claims for relief.

Claim One – Life Sentence without Parole Violates the Prohibition of Cruel and Unusual Punishment of the Eighth Amendment

Defendant asserts that the life sentence for murder in the second degree, imposed in case no. 03-3887CFAES, is unconstitutional. Specifically, Defendant contends a life sentence for a crime committed when he was 23 years old, constitutes cruel and unusual punishment in violation of the Eighth Amendment to the Constitution, and is illegal under Graham v. Florida, 560 U.S. 48 (2010). Defendant also requests the Court adopt an Illinois appellate court’s opinion in People v. House, 72 N.E. 3d 357 (Ill. App. Ct. 2015) (imposition of a natural life sentence on a nineteen year old adult defendant convicted of murder and aggravated kidnapping violates the Eighth Amendment) to find that the life sentence imposed in the instant case is unconstitutional. Defendant additionally presents medical literature regarding human brain development research, in support of his arguments.

Defendant’s claim is without merit. While the Graham decision deemed it unconstitutional to sentence *juveniles* to life in prison without the possibility of parole for *non-homicide offenses*, this decision does not provide the relief Defendant seeks. The record before the Court indicates Defendant committed a murder and attempted murder on September 15, 2003, when he was 23 years of age. *See Indictment and Information*. The Graham decision does not apply to adult offenders. Graham, 560 U.S. at 68-69. This Court is bound by precedent to follow the decision of the United States Supreme Court in Graham. Further, the Court has reviewed, but declines to adopt the Illinois Court’s decision in People v. House, 72 N.E. 3d 357. Therefore, Defendant’s claim must be denied.

Claim Two – A Manifest Injustice Occurred when the Trial Court gave an Erroneous Jury Instruction

Next, the Defendant alleges that the Court gave a fundamentally erroneous jury instruction for the lesser offenses of manslaughter and attempted manslaughter, which suggested the State was required to prove intent to kill to prove the crime of manslaughter. First, the Defendant’s claim that his sentences are illegal based on errors at trial amounts to an attack of his convictions, not his sentences. Such claims are not cognizable under Rule 3.800(a). *See Shortridge v. State*,

884 So. 2d 321 (Fla. 2d DCA 2004) (“Because the two claims raised by Shortridge relate to convictions and not sentences, they are not cognizable under rule 3.800(a).”). Furthermore, substantive challenges to jury instructions are procedurally barred in a motion for postconviction relief because such claims could have been raised on direct appeal. See Thompson v. State, 759 So. 2d 650, 665 (Fla. 2000); Sims v. State, 141 So. 3d 613 (Fla. 4th DCA 2014) (claims alleging trial court error in jury instructions are not cognizable in a postconviction motion).

Second, the Defendant acknowledges that he has previously raised this issue and that this claim is successive. He argues that the alleged error amounts to a manifest injustice and should therefore be again reviewed. However, Defendant is not entitled to successive review of an issue already decided against him. See Price v. State, 692 So. 2d 971 (Fla. 2d DCA 1997); McBride v. State, 848 So. 2d 297, 291 (Fla. 2003) (stating that a defendant “is not entitled to successive review of a specific issue which has already been decided against him.”). The Court finds that this successive claim does not amount to a manifest injustice. McBride, 848 So. 2d 287 (Fla. 2003).

Claim Two is dismissed because it is not cognizable in a motion to correct illegal sentence and also based on Defendant’s acknowledgement he previously raised this issue.

Claim Three – Scoring of Victim Injury on the Scoresheet Violates the Defendant’s Sixth Amendment Rights

The Defendant argues that the scoring of victim injury points on the scoresheet is unconstitutional. The Defendant acknowledges that he raised a similar claim in a previous motion to correct sentence filed under Rule 3.800(a). The Court denied the Defendant’s request for relief as set forth in orders entered June 26, 2014 and September 24, 2014. *See Motion and Orders*. These orders were per curiam affirmed by the Second District Court of Appeal on May 20, 2015, in Case No. 2D14-5516. The Mandate issued July 8, 2015. *See Opinion and Mandate*.

Although rule 3.800(a) does not limit successive motions, “a defendant is not entitled to successive review of a specific issue which has already been decided against him.” See Price v. State, 692 So. 2d 971; see also, Raley v. State, 675 So. 2d 170 (Fla. 5th DCA 1996). As the Defendant is attempting to re-litigate an issue which has already been decided against him, the Court finds this claim is successive and must be denied. See Raley, 675 So. 2d at 174 (explaining “law of the case doctrine” is applicable in postconviction proceedings wherein defendant requests review of specific claim of error which has already been raised and decided by appellate court). Claim Three is therefore denied.

Claim Four – Attempted Second-Degree Murder is a Logical Impossibility and Should be Declared a Non-Existent Crime

Here, Defendant alleges his sentence is illegal because he was charged with a crime that does not exist. Specifically, he claims that the crime of attempted second degree murder does not exist, therefore rendering his charge, conviction, and sentence illegal. This claim is without merit. Defendant argues that the case law invalidating the crime of attempted first degree *felony* murder should apply to attempted second degree murder, as well. However, the holding of State v. Gray, 654 So. 2d 552 (Fla. 1995), that the crime of attempted felony murder does not exist, is expressly limited to attempted *felony* murders. The Court invalidated the offense because the crime of attempt requires specific intent to commit the underlying offense (i.e. the murder) whereas felony murder only requires intent to commit the underlying felony. See id. at 553. This Court finds that contrary to Defendant's assertion, the crime of attempted second degree murder did exist at the time of his conviction. See Brown v. State, 790 So. 2d 389 (Fla. 2000). See §§ 782.04(1)(a) and 777.04, Florida Statutes (2003); *see Felony Information*. Moreover, Defendant acknowledges in his motion that the Florida Supreme Court rejected this argument in Brown v. State, 790 So. 3d 389, but indicates he is preserving this claim for purposes of further review. Accordingly, Claim Four is denied.

Therefore, it is

ORDERED AND ADJUDGED that Defendant's Motion to Correct Illegal Sentence is hereby **DENIED**.

DEFENDANT IS NOTIFIED that he has thirty (30) days from the date of this order in which to file an appeal should he choose to do so.

DONE AND ORDERED in Chambers at Dade City, Pasco County, Florida, this 3 day of October, 2022. A true and correct copy of this order has been furnished to the parties listed below.


TRUE COPY
Original Signed
OCT 03 2022
GREGORY G. GROGER
Gregory G. Groger, Circuit Judge
CIRCUIT JUDGE

Copies to:

Office of the State Attorney

Michael Ufferman, Esquire
2022-1 Raymond Diehl Road
Tallahassee, Florida 32308

Attachments:

Indictment

Felony Information

Judgments and Sentences

Mandates and Opinions

FILED IN OPEN COURT

THIS 17 DAY OF Sept, 23

Jed Pittman, Clerk 12:15pm

INDICTMENT

BY [Signature] D.C.

**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
OF FLORIDA, IN AND FOR PASCO COUNTY**

SPRING TERM, In the year of our Lord two thousand three

0303887 ~~CHAS~~ - 0401 cy

STATE OF FLORIDA

INDICTMENT FOR

vs.

TIMOTHY JAMES HAHN
SPN 435099
W/M; DOB: 8/28/80
SSN: 574-70-3378

MURDER IN THE FIRST DEGREE,
Capital Felony

IN THE NAME AND BY THE AUTHORITY FOR THE STATE OF FLORIDA:

The Grand Jurors of the State of Florida, impaneled and sworn to inquire and true charge make in and for the body of the County of Pasco, upon their oath do charge that

TIMOTHY JAMES HAHN

in the County of Pasco and State of Florida, on the 15th day of September, in the year of our Lord, two thousand three, in the County and State aforesaid unlawfully and from a premeditated design to effect the death of Todd Byers, a human being, did by striking the said Todd Byers with a motor vehicle, thereby inflicting upon the said Todd Byers mortal wounds, of which said mortal wounds, and by the means aforesaid and as a direct result thereof, the said Todd Byers died; contrary to Chapter 782.04(1)(a), Florida Statutes, and against the peace and dignity of the State of Florida. [L2]

RP/leb

IN THE CIRCUIT COURT
FOR THE SIXTH JUDICIAL CIRCUIT OF FLORIDA
IN AND FOR PASCO COUNTY

FALL TERM, 2003



FELONY INFORMATION

CRC03-5288 CFAES

FILED FOR RECORD
PASCO COUNTY FLORIDA
2003 DEC -8 A 11:08
CLERK OF CIRCUIT
AND COUNTY COURTS

STATE OF FLORIDA

VS.

TIMOTHY JAMES HAHN
SPN 00435099
W/M; DOB: 8/28/80
SSN: 574-70-3378

ATTEMPTED MURDER IN THE FIRST
DEGREE, 1st

IN THE NAME AND BY THE AUTHORITY FOR THE STATE OF FLORIDA:

BERNIE McCABE, State Attorney for the Sixth Judicial Circuit of
Florida, in and for Pasco County, prosecuting for the State of
Florida, in the said County, under oath, Information makes that

TIMOTHY JAMES HAHN

in the County of Pasco and State of Florida, on the 15th day of
September, in the year of our Lord, two thousand three, in the
County and State aforesaid, unlawfully and from a premeditated
design to effect the death of Patricia Byers, a human being, did
attempt to kill her by striking with a motor vehicle thereby
knowingly or intentionally causing great bodily harm or permanent
disability or permanent disfigurement to her person; contrary to
Chapter 782.04(1)(a)/777.04, Florida Statutes, and against the
peace and dignity of the State of Florida. [L3]

STATE OF FLORIDA
PASCO COUNTY

Personally appeared before me BERNIE McCABE, the undersigned State Attorney for the
Sixth Judicial Circuit of Florida, in and for Pasco County, or his duly designated
Assistant State Attorney, who being first duly sworn, says that the allegations as
set forth in the foregoing information are based upon facts that have been sworn to
as true, and which if true, would constitute the offense therein charged; hence this
information is filed in good faith in instituting this prosecution, and that he has
received testimony under oath from the material witness or witnesses for the
offense.

Assistant State Attorney for the Sixth
Judicial Circuit of the State of Florida,
Prosecuting for said State

The foregoing instrument was acknowledged before me
this 8th day of December, 2003
by PHILIP O. VAN ALLEN, who
is personally known to me and who did take an oath.

Capias Not Needed

SE03-42687 1205aa33

PD 12-22-03

NOTARY PUBLIC



Diane Romano
MY COMMISSION # DD140170 EXPIRES
August 7, 2006
BONDED THRU TROY FARM INSURANCE, INC.

I, Bruce L. Bartlett, Chief Assistant State Attorney for the Sixth Judicial Circuit of Florida, have advised the Grand Jury returning the above Indictment, as authorized and required by law.

B. L. Bartlett
BRUCE L. BARTLETT,
Chief Assistant State Attorney for the Sixth
Judicial Circuit of the State of Florida,
Prosecuting for said State

Presented in open Court by the Grand Jury and filed this 17 day of
SEPTEMBER, A.D., 2003.

JED PITTMAN
Clerk of the Circuit Court

By [Signature]
Deputy Clerk

IN CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT
PASCO COUNTY, FLORIDA

The State of Florida

vs.

TIMOTHY JAMES HAHN

Indictment for

MURDER IN THE FIRST DEGREE,
Capital Felony

A TRUE BILL.

[Signature]
Foreman of the Grand Jury

0916sa101

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL
CIRCUIT IN AND FOR PASCO COUNTY, FLORIDA

STATE OF FLORIDA
VS.

TIMOTHY JAMES HAHN

CASE NO. 0303887CFAES
SPN. 00435099
DOC NUM:
SOC SEC:



____ Community Control Violator ____ Retrial
____ Probation Violator ____ Resentence

***AMENDED**

JUDGMENT

The Defendant, TIMOTHY JAMES HAHN, being personally before this court represented by KETIH
HAMMOND, the attorney of record, and the State represented by MANUEL GARCIA and having

 X 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)

Count	Crime	OBTS Num.	Statute & Degree
001	LESSER MURDER IN THE 2 ND DEGREE	5101066040	782.04(3)0912 CAPITAL FELONY

 X 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 defense
shall be required to submit blood specimens.

____ And good cause being shown; IT IS SHOW THAT ADJUDICATION OF GUILT BE WITHHELD.

The Court hereby stays and withholds the imposition of sentence as to count(s) _____

And places the defendant on _____
under the supervision of the Department of Corrections (conditions of probation and/or
community control set forth in a separate order).

____ The Court defers imposition of sentence until _____

____ The Court finds that the defendant violated all the conditions alleged in the affidavit, a copy of
which is attached as exhibit 1.

The defendant in open court was advised of his right of appeal from this judgment by filing notice of
appeal with the Clerk of Court within thirty days following the date sentence is imposed or probation is
ordered pursuant to this adjudication. The defendant was also advised of right to the assistance of
counsel in taking said appeal at the expense of the State upon showing of indigence.

NUNC PRO TUNC NOVEMBER 30, 2005
***AMENDED TO CORRECT LESSER CHARGE**

Circuit Judge, LYNN TEPPER

JAN 13 2006

BOOK PAGE 428
BOOK PAGE 428

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL
CIRCUIT IN AND FOR PASCO COUNTY, FLORIDA

STATE OF FLORIDA
VS.

TIMOTHY JAMES HAHN

CASE NO. 0303887CFAES
SPN. 00435099
DOC NUM:
SEC:

512883CF682887XXXXX Vol 1803 0828-00738

____ Community Control Violator ____ Retrial
____ Probation Violator ____ Resentence

JUDGMENT

The Defendant, TIMOTHY JAMES HAHN being personally before this court represented by KEITH HAMMOND, the attorney of record, and the State represented by STACEY SUMNER / MANUEL GARCIA and having

X 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)

Count	Crime	OBTS Num.	Statute & Degree
001	MURDER IN THE FIRST DEGREE	5101066040	782.04(1)(a) Capital Felony

FILED FOR RECORD
PASCO COUNTY, FLORIDA
2ND DEC -9 PM 2:13
CLERK OF COURT

X 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 defense shall be required to submit blood specimens.

____ And good cause being shown; IT IS SHOW THAT ADJUDICATION OF GUILT BE WITHHELD.
The Court hereby stays and withholds the imposition of sentence as to count(s) ____
And places the defendant on ____
under the supervision of the Department of Corrections (conditions of probation and/or community control set forth in a separate order).

____ The Court defers imposition of sentence until

____ The Court finds that the defendant violated all the conditions alleged in the affidavit, a copy of which is attached as exhibit 1.

The defendant in open court was advised of his right of appeal from this judgment by filing notice of appeal with the Clerk of Court within thirty days following the date sentence is imposed or probation is ordered pursuant to this adjudication. The defendant was also advised of right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigence.

NUNC PRO TUNC: NOVEMBER 30, 2005

Circuit Judge, LYNN TEPPER

BOOK 129 PAGE 1924

DEC 15 2005

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL
CIRCUIT IN AND FOR PASCO COUNTY, FLORIDA

STATE OF FLORIDA
VS.

TIMOTHY JAMES HAHN

CASE NO. 0303887CFAES
SPN. 00435099
DOC NUM:
SOC SEC:



____ Community Control Violator ____ Retrial
____ Probation Violator ____ Resentence

***AMENDED**

JUDGMENT

____ The Defendant, TIMOTHY JAMES HAHN, being personally before this court represented by KETIH HAMMOND, the attorney of record, and the State represented by MANUEL GARCIA, and having

X 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)

Count	Crime	OBTS Num.	Statute & Degree
001	LESSER MURDER IN THE 2 ND DEGREE	5101066040	782.04(3)0912 CAPITAL FELONY

X 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 defense shall be required to submit blood specimens.

____ And good cause being shown; IT IS SHOW THAT ADJUDICATION OF GUILT BE WITHHELD.
The Court hereby stays and withholds the imposition of sentence as to count(s) ____
And places the defendant on ____
under the supervision of the Department of Corrections (conditions of probation and/or community control set forth in a separate order).

____ The Court defers imposition of sentence until

____ The Court finds that the defendant violated all the conditions alleged in the affidavit, a copy of which is attached as exhibit 1.

The defendant in open court was advised of his right of appeal from this judgment by filing notice of appeal with the Clerk of Court within thirty days following the date sentence is imposed or probation is ordered pursuant to this adjudication. The defendant was also advised of right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigence.

NUNC PRO TUNC NOVEMBER 30, 2005
***AMENDED TO CORRECT LESSER CHARGE**

Circuit Judge, LYNN TEPPER

JAN 13 2006

BOOK PAGE 428
BOOK PAGE 121

In The Court Of The And For Pasco County, Florida

STATE OF FLORIDA

VS

TIMOTHY JAMES HAHN

Division:

Case Num: 0303887CFAES

Spn Num: 00435099

DOC Num:



012083CFC083087XXXXX Vol002 0828-00740

CHARGES/COSTS/FEEs

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

- ☒ \$3.00 as a court cost pursuant to section 938.01, Florida Statutes (Additional court costs for Clearing House Fund). Item
- ☒ \$50.00 pursuant to section 938.03, Florida Statutes (Crimes Compensation Trust Fund). Item
- ☒ \$2.00 as a court cost pursuant to section 938.15, Florida Statutes (Criminal Justice Education by Municipalities and Counties). Item
- ☐ _____ 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 part of a sentence to section 775.083, Florida Statutes are to be recorded on the sentence page(s).)
- ☒ \$200.00 pursuant to section 938.05, Florida Statutes (Local Government Criminal Trust Fund). Item
- ☐ _____ pursuant to section 938.27, Florida Statutes (Prosecution/Investigate Costs).
- ☐ _____ pursuant to section 938.29, Florida Statutes (Public Defender Fees).
- ☐ _____ restitution.
- ☐ _____ pursuant to section 938.25, Florida Statutes (FDLE Operating Fund).
- ☐ _____ fine.
- ☐ _____ pursuant to Section 27.52 Florida Statutes (Criminal Indigent Defense Trust Fund Application Fee).
- ☒ \$3.00 pursuant to 938.19, Florida Statutes and Ordinance 05-25 (Teen Court). Item
- ☒ \$50.00 pursuant to Section 775.083(2)F.S (Crime Prevention Court Costs) Item
- ☒ \$65.00 pursuant to Section 939.185,F.S(Costs for County Programs) Item
- ☒ \$201.00 pursuant to Section 938.08 Florida Statutes (Domestic Violence Trust Fund). Item
- ☒ \$151.00 pursuant to section 938.085, Florida Statutes (Rape Crisis Program Trust Fund). Item
- ☒ Other ALL COSTS concurrent with 0305288CFAES

DONE AND ORDERED in open court in Dade City, Pasco County, Florida,
This 8 day of Dec, 2005

Circuit Judge, LYNN TEPPER

Book _____ Page _____
NUNC PRO TUNC NOVEMBER 30, 2005

BOOK 126 PAGE 1826

State of Florida

Vs

Timothy James HAHN

Case Num: 0302887CFAES
SPN: 435099
DOC Num:



FINGERPRINTS OF DEFENDANT

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

Fingerprints taken by *Nina Perez #1024*

I HEREBY CERTIFY that the above and foregoing are the fingerprints of the defendant, *Timothy James HAHN*, and that they were placed thereon by the defendant in my presence in open court this date.

DONE AND ORDERED in open court in Pasco County, Florida,
This *30* day of *November* 2005.

Circuit Judge Lynn Tepper

BOOK *129* PAGE *1925*

Defendant:

TIMOTHY JAMES HAHN

Case Num:0303887CFAES

SPN: 00435099

OBTS Num:

DOC Num:

SENTENCE
(As To Count 001)



The Defendant, being personally before this court, accompanied by the Defendant's attorney of record, 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

_____ 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 re sentences the Defendant

_____ and the Court having placed the Defendant on probation/community control and having
subsequently revoked the Defendant's probation/community control. The Court found the
Defendant in violation of specific conditions of probation/community control, see attached
affidavit.

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% additional court cost (Fines & Bail Bonds) required by section 938.04, Florida Statutes.

☒ The Defendant is hereby committed to the custody of the Department of Corrections.

_____ The Defendant is hereby committed to the custody of the Sheriff of Pasco 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 life

_____ 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

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 _____ Imprisoned 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.*

Page _____ of _____

BOOK 129 PAGE 1827

Defendant:
TIMOTHY JAMES HAHN

Case Num: 0303887CFAES
SPN Num: 00435099
DOC Num:

SPECIAL PROVISIONS



Other Provisions:

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

Jail Credit X It is further ordered that the defendant shall be allowed a total of 804 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 re sentencing.

Consecutive/ Concurrent As To Other Counts _____

Consecutive/ Concurrent As To Other Convictions X 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 X concurrent with the following: (check one)

_____ any active sentence being served,

X specific sentences: CRC0305288CFAES

In the event the above sentence is to the Department of Corrections, the Sheriff of Pasco 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 indigence.

In imposing the above sentence, the court further recommends _____

VICTIM: DECEASED _____

DONE AND ORDERED in open court at Pasco County, Florida this 8 day of DECEMBER, 2005.


Circuit Judge LYNN TEPPER

BOOK 139 PAGE 1928

Defendant:
TIMOTHY JAMES HAHN

Case Num: 0303887CFAES
SPN Num: 00435099
DOC Num:

SPECIAL PROVISIONS



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 804 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 re sentencing.

Consecutive/ Concurrent As To Other Counts ☐

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: CRC0305288CFAES

In the event the above sentence is to the Department of Corrections, the Sheriff of Pasco 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 indigence.

In imposing the above sentence, the court further recommends _____

VICTIM: DECEASED

DONE AND ORDERED in open court at Pasco County, Florida this 8 day of DECEMBER, 2005.


Circuit Judge LYNN TEPPER

BOOK 129 PAGE 1928

Defendant:

TIMOTHY JAMES HAHN

Case Num:0303887CFAES

SPN: 00435099

OBTS Num:

DOC Num:

SENTENCE
(As To Count 001)



The Defendant, being personally before this court, accompanied by the Defendant's attorney of record, 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

_____ 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 re sentences the Defendant

_____ and the Court having placed the Defendant on probation/community control and having subsequently revoked the Defendant's probation/community control. The Court found the Defendant in violation of specific conditions of probation/community control, see attached affidavit.

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% additional court cost (Fines & Bail Bonds) required by section 938.04, Florida Statutes.

☒ The Defendant is hereby committed to the custody of the Department of Corrections.

_____ The Defendant is hereby committed to the custody of the Sheriff of Pasco 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 life

_____ 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 _____

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 _____ Imprisoned 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.

Page _____ of _____

BOOK 139 PAGE 1927

Defendant:

TIMOTHY JAMES HAHN

Case Num: 0303887CFAES

SPN Num:00435099

DOC Num:

***AMENDED
SPECIAL PROVISIONS**



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 1804 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 re sentencing.

Consecutive/
Concurrent As To
Other Counts ☐

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: CRC0305288CFAES

In the event the above sentence is to the Department of Corrections, the Sheriff of Pasco 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 indigence.

In imposing the above sentence, the court further recommends

VICTIM: DECEASED

DONE AND ORDERED in open court at Pasco County, Florida this 14 day of DECEMBER, 2005.

NUNC PRO TUNC NOVEMBER 30, 2005
*AMENDED TO ADD NUNC PRO TUNC

Circuit Judge, LYNN TEPPER

DEC 20 2005

BOOK 108 PAGE 201

STATE OF FLORIDA

CASE NO 0303887CFAES

VS.

SPN NO. 435099

TIMOTHY JAMES HAHN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the Probation Order has been furnished to:

(X) Personal Service to State Attorney for Sixth Judicial Circuit, Pasco County, Florida

() Personal Service to Public Defender for Sixth Judicial Circuit, Pasco County, Florida

(X) Personal Service

(X) U.S. Mail

To: KEITH HAMMOND Attorney of Record
Address: 9436 REGENCY PARK BLVD
PORT RICHEY FL 34668

() Personal Service

(X) U.S. Mail

To:
Address:..



DATED this 9 day of NOVEMBER, 2005.

JED PITTMAN
Clerk of Circuit Court

By: Jackie Noue

BOOK 139 PAGE 1929

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL
CIRCUIT IN AND FOR PASCO COUNTY, FLORIDA

STATE OF FLORIDA
VS.

TIMOTHY JAMES HAHN

CASE NO. 0305288CFAES
SPN. 00435099
DOC NUM:
SEC:



____ Community Control Violator ____ Retrial
____ Probation Violator ____ Resentence

JUDGMENT

____ The Defendant, TIMOTHY JAMES HAHN being personally before this court represented by KEITH HAMMOND, the attorney of record, and the State represented by STACEY SUMNER / MANUEL GARCIA and having

____ X 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)

Count	Crime	OBS Num.	Statute & Degree
001	ATTEMPTED MURDER IN THE FIRST DEGREE	8888888888	782.04(1)(a) 777.04 First Degree Felony

FILED FOR RECORD
ASCO COURT, FLORIDA
DEC-9 PM 2:13
CLERK OF CIRCUIT
PASCO COUNTY, FLORIDA

____ X 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 defense shall be required to submit blood specimens.

____ And good cause being shown; IT IS SHOW THAT ADJUDICATION OF GUILT BE WITHHELD.

The Court hereby stays and withholds the imposition of sentence as to count(s) _____

And places the defendant on _____
under the supervision of the Department of Corrections (conditions of probation and/or community control set forth in a separate order).

____ The Court defers imposition of sentence until _____

____ The Court finds that the defendant violated all the conditions alleged in the affidavit, a copy of which is attached as exhibit 1.

The defendant in open court was advised of his right of appeal from this judgment by filing notice of appeal with the Clerk of Court within thirty days following the date sentence is imposed or probation is ordered pursuant to this adjudication. The defendant was also advised of right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigence.

NUNC PRO TUNC: NOVEMBER 30, 2005

Circuit Judge, LYNN TEPPER

BOOK 129 PAGE 1916

DEC 15 2005

STATE OF FLORIDA
VS.

TIMOTHY JAMES HAHN

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL
CIRCUIT IN AND FOR PASCO COUNTY, FLORIDACASE NO. 0305280FAES
SPN. 00435099DOC NUM:
DIVISION:
☐ Community Control Violator ☐ Retrial
☐ Probation Violator ☐ Resentence

* AMENDED

JUDGMENT

The Defendant, TIMOTHY JAMES HAHN, being personally before this court represented by KEITH HAMMOND, the attorney of record, and the State represented by STACEY SUMNER, MANUAL GARCIA 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)

Court	Crime	OBTS Num.	Statute & Degree
001	LESSER INCLUDED CRIME OF ATTEMPTED MURDER IN THE 2 ND DEGREE	888888888	782.04(1) 2 ND degree felony

- ☒ 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 defense shall be required to submit blood specimens.
- ☐ And good cause being shown; IT IS SHOW THAT ADJUDICATION OF GUILT BE WITHHELD. The Court hereby stays and withholds the imposition of sentence as to count(s) _____ And places the defendant on _____ under the supervision of the Department of Corrections (conditions of probation and/or community control set forth in a separate order).
- ☐ The Court defers imposition of sentence until _____
- ☐ The Court finds that the defendant violated all the conditions alleged in the affidavit, a copy of which is attached as exhibit 1.

The defendant in open court was advised of his right of appeal from this judgment by filing notice of appeal with the Clerk of Court within thirty days following the date sentence is imposed or probation is ordered pursuant to this adjudication. The defendant was also advised of right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigence.

Circuit Judge, LYNN TEPPER

*AMENDED TO CORRECT CHARGE
 NUNC PRO TUNC NOVEMBER 30, 2005

BOOK 13P PAGE 44C

NOV 03 2005

State of Florida











Vs

Timothy James HAHN



Case Num: 0305288CFAES
SPN: 435099
DOC Num:

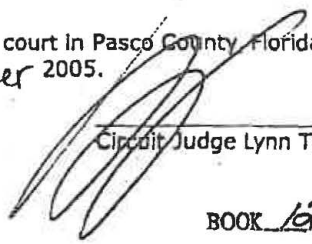
FINGERPRINTS OF DEFENDANT

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

Fingerprints taken by *Nellie Perez #1024*

I HEREBY CERTIFY that the above and foregoing are the fingerprints of the defendant, *Timothy James HAHN*, and that they were placed thereon by the defendant in my presence in open court this date.

DONE AND ORDERED in open court in Pasco County, Florida,
This *30* day of *November* 2005.


Circuit Judge Lynn Tepper

BOOK *129* PAGE *1912*

In The Court Of The And For Pasco County, Florida

STATE OF FLORIDA

VS

TIMOTHY JAMES HAHN

Division:

Case Num: 0305288CFAES

Spin Num: 00435099

DOC Num:



512803CF005288XXXXX25

0863-01368

CHARGES/COSTS/FEEs

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

- ☒ \$3.00 as a court cost pursuant to section 938.01, Florida Statutes (Additional court costs for Clearing House Fund). lien
- ☒ \$50.00 pursuant to section 938.03, Florida Statutes (Crimes Compensation Trust Fund). lien
- ☒ \$2.00 as a court cost pursuant to section 938.15, Florida Statutes (Criminal Justice Education by Municipalities and Counties). lien
- ☐ _____ 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 part of a sentence to section 775.083, Florida Statutes are to be recorded on the sentence page(s).)
- ☒ \$200.00 pursuant to section 938.05, Florida Statutes (Local Government Criminal Trust Fund). lien
- ☐ _____ pursuant to section 938.27, Florida Statutes (Prosecution/Investigate Costs).
- ☐ _____ pursuant to section 938.29, Florida Statutes (Public Defender Fees).
- ☐ _____ restitution.
- ☐ _____ pursuant to section 938.25, Florida Statutes (FDLE Operating Fund).
- ☐ _____ fine.
- ☐ _____ pursuant to Section 27.52 Florida Statutes (Criminal Indigent Defense Trust Fund Application Fee).
- ☒ \$3.00 pursuant to 938.19, Florida Statutes and Ordinance 05-25 (Teen Court). lien
- ☒ \$50.00 pursuant to Section 775.083(2)F.S (Crime Prevention Court Costs) lien
- ☒ \$65.00 pursuant to Section 939.185,F.S(Costs for County Programs) lien
- ☒ \$201.00 pursuant to Section 938.08 Florida Statutes (Domestic Violence Trust Fund). lien
- ☒ \$151.00 pursuant to section 938.085, Florida Statutes (Rape Crisis Program Trust Fund). lien
- ☒ Other ALL COSTS concurrent with 0303887CFAES

DONE AND ORDERED in open court in Dade City, Pasco County, Florida,
This 8 day of Dec, 2005

Circuit Judge, LYNN TEPPER

Book _____ Page _____
NUNC PRO TUNC NOVEMBER 30, 2005

BOOK 129 PAGE 1928

Defendant:

TIMOTHY JAMES HAHN

Case Num:0305288CFAES

SPN: 00435099

OBTS Num:

DOC Num:

SENTENCE
(As To Count 001)



912803CF866208X7XK5

0063-01369

The Defendant, being personally before this court, accompanied by the Defendant's attorney of record, 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

- ☐ 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 re sentences the Defendant
- ☐ and the Court having placed the Defendant on probation/community control and having subsequently revoked the Defendant's probation/community control. The Court found the Defendant in violation of specific conditions of probation/community control, see attached affidavit.

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% additional court cost (Fines & Bail Bonds) required by section 938.04, Florida Statutes.
- ☒ The Defendant is hereby committed to the custody of the Department of Corrections.
- ☐ The Defendant is hereby committed to the custody of the Sheriff of Pasco 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 30 years
- ☐ 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 _____
- 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 _____ Imprisoned 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.

Page _____ of _____

BOOK 129 PAGE 1912

Defendant:
TIMOTHY JAMES HAHN

Case Num: 0305288CFAES
SPN Num: 00435099
DOC Num:



SPECIAL PROVISIONS

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 0 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 re sentencing.

Consecutive/
Concurrent As To
Other Counts ☐

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: CRC0303887CFAES

In the event the above sentence is to the Department of Corrections, the Sheriff of Pasco 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 indigence.

In imposing the above sentence, the court further recommends

VICTIM: Patricia Byers, 2609 Twenty Mile Level Rd., Land O Lakes FL 34639

DONE AND ORDERED In open court at Pasco County, Florida this 8 day of
DECEMBER, 2005.

Circuit Judge LYNN TEPPER

BOOK BQ PAGE 1920

STATE OF FLORIDA

CASE NO 0305288CFAES

VS.

SPN NO. 435099

TIMOTHY JAMES HAHN

CERTIFICATE OF SERVICE



I HEREBY CERTIFY that a copy of the Probation Order has been furnished to:

- (X) Personal Service to State Attorney for Sixth Judicial Circuit, Pasco County, Florida
- () Personal Service to Public Defender for Sixth Judicial Circuit, Pasco County, Florida

(X) Personal Service (X) U.S. Mail
To: KEITH HAMMOND Attorney of Record
Address: 9436 REGENCY PARK BLVD
PORT RICHEY FL 34668

() Personal Service (X) U.S. Mail
To:
Address:.

DATED this 9 day of NOVEMBER, 2005.

JED PITTMAN
Clerk of Circuit Court

By: Jackie Nance

BOOK 129 PAGE 1921

State of Florida
vs
Timothy James Hahn

In The Circuit Court of the
Sixth Judicial Circuit In And
For Pasco County, Florida

Division: 01
Case Num: CRC0305288CFAES
SPN: 00435099
DOC Num:
Soc. Sec. :

____ Comm. Control Violator ____ Retrial
____ Probation Violator ☒ Resentence

JUDGMENT

The Defendant, Timothy James Hahn, being personally before this court represented by Justin Petredis, the attorney of record, and the State represented by Stacey Sumner 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)

Count	Crime	OBTS Num	Statute and Degree
001	LESSER - ATTEMPTED MURDER IN THE FIRST DEGREE	8888888888	782.04(1)(A)/777.04 First Degree Felony

☒ 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 good cause being shown; IT IS SHOWN THAT ADJUDICATION OF GUILT BE WITHHELD.

____ The Court hereby stays and withholds the imposition of sentence as to count(s)

____ under the supervision of the Department of Corrections
(Conditions of probation and/or community control set forth in a separate order)

____ The Court defers imposition of sentence until

____ The Court finds that the defendant violated all the conditions alleged in the affidavit, a copy of which is attached as exhibit 1.

The defendant in open court was advised of his right to appeal from this judgment by filing notice of appeal with the Clerk of Court within thirty days following the date sentence was imposed or probation is ordered pursuant to this adjudication. The defendant was also advised of his right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigence.

Dated this 9 day of Sept 2014 in Pasco County.

Book _____ Page _____

NUNC PRO TUNC August 22, 2014

Lynn Tepper
Circuit Judge

FILED FOR RECORD
PASCO COUNTY, FLORIDA
2014 SEP 15 AM 8:37
Paula S. O'Neil
Clerk & Comptroller
Pasco County, Florida










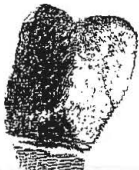
IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, FLORIDA

STATE OF FLORIDA
VS

TIMOTHY JAMES HAHN

CASE NO: 0303889 CFAES^{5288.BW}
SPN NO: 00435099
DOC NO: _____

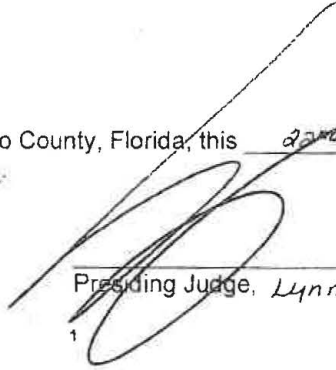
~FINGERPRINTS OF DEFENDANT~

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

Fingerprints taken by DEPUTY COLALUCA #4176, Bailiff.

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

DONE AND ORDERED in open court in Pasco County, Florida, this 22nd day of
August 20 14


Presiding Judge, Lynn Tepper

FINGERPRINTS CIRCUIT BLANK

1

R03/02/10

STATE OF FLORIDA

VS

Timothy James Hahn

In The Circuit Court Of The
Sixth Judicial Circuit In And
For Pasco County, Florida

Division: 01
Case Num: CRC0305288CFAES
SPN Num: 00435099
DOC Num:

CHARGES/COSTS/FEEES

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

- _____ as a court cost pursuant to Section 938.01, Florida Statutes (Additional court costs for Clearing House Fund).
- _____ pursuant to Section 938.03, Florida Statutes (Crimes Compensation Trust Fund).
- _____ as a court cost pursuant to Section 938.15, 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)).
- _____ A sum of _____ pursuant to Section 938.05, Florida Statutes (Fine and Forfeiture Fund).
- _____ A sum of _____ pursuant to Section 938.27, Florida Statutes (Prosecution Costs).
- _____ A sum of _____ pursuant to Section 938.27, Florida Statutes (Investigation Costs)
- _____ A sum of _____ pursuant to Section 938.29, Florida Statutes (Public Defender Fees).
- _____ A sum of _____ pursuant to Section 938.29, Florida Statutes (Regional Counsel Fees).
- _____ A sum of _____ for restitution.
- _____ A sum of _____ pursuant to Section 938.25, Florida Statutes (FDLE Operating Fund).
- _____ A sum of _____ fine pursuant to Section 775.083, Florida Statutes.
- _____ A sum of _____ pursuant to Section 938.04, Florida Statutes (%5 Fine Surcharge).
- _____ A sum of _____ pursuant to Section 27.52, Florida Statutes (Criminal Indigent Defense Trust Fund Application Fee).
- _____ A sum of _____ pursuant to Section 938.19, Florida Statutes and Ordinance 05-25 (Teen Court).
- _____ A sum of _____ pursuant to Section 775.083(2), Florida Statutes (Crime Prevention Court Cost).
- _____ A sum of _____ pursuant to Section 938.10, Florida Statutes (Crimes Against Minors).
- _____ A sum of _____ pursuant to Section 938.08, Florida Statutes (Domestic Violence Trust Fund).
- _____ A sum of _____ pursuant to Section 938.085, Florida Statutes (Rape Crisis Program Trust Fund).
- _____ A sum of _____ pursuant to Section 939.185, Florida Statutes and Ordinance 04-23 (Costs for County Programs).
- _____ A sum of _____ pursuant to Section 318.18(13)(a), Florida Statutes and Ordinance 04-24 (Traffic Surcharge/Court Facilities).
- _____ A sum of _____ pursuant to Section 28.246, Florida Statutes (Payment Plan)
- _____ A sum of _____ pursuant to Section 943.325, Florida Statutes (DNA Testing).
- _____ A sum of _____ pursuant to Section 938.06, Florida Statutes (Crime Stoppers Trust Fund)

STATE OF FLORIDA

CHARGES/COSTS/FEEs - Page 2

vs

Timothy James Hahn

Case Num: CRC0305288CFAES
SPN Num: 00435099

___ A sum of ___ pursuant to Section 318.18(17), Florida Statutes (State Radio Systems)

___ A sum of ___ pursuant to Section 938.13, Florida Statutes and Ordinance 34-6 (Substance Abuse Surcharge)

☒ Other: PRIOR COURT COSTS RE-IMPOSED.


The defendant having been given notice that funds in the commissary account may be applied to the above charges and the court having considered the defendant's objections, the Pasco County Sheriff is ordered to forward all funds in the defendant's commissary account to the Pasco Clerk of the Circuit Court when the defendant is released from the Pasco County Jail if the amount of the funds is at least ten dollars (\$10.00).

If you are unable to pay for financial obligations today, or as otherwise directed by the Court, you must go to the Clerk's Office to set up a payment plan and pay a \$25.00 application fee pursuant to F.S. 28.246. FAILURE TO DO SO MAY RESULT IN SUSPENSION OF YOUR DRIVER'S LICENSE.

Dated this 9 day of Sept 2014 in Pasco County, Florida

Book ___ Page ___

NUNC PRO TUNC August 22, 2014


Lynn Tepper
Circuit Judge

Defendant: Timothy James Hahn

Case Num: CRC0305288CFAES

SPN: 00435099

OBTS Num: 8888888888

DOC Num:

SENTENCE

(As To Count 001)

The Defendant, being personally before this court, accompanied by the Defendant's attorney of record, Justin Petredis, 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

- ☐ 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 resents the Defendant
- ☐ and the Court having placed the Defendant on probation/community control and having subsequently revoked the Defendant's probation/community control. The Court found the Defendant in violation of specific conditions of probation/community control, see attached affidavit.

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% additional court cost (Fines & Bail Bonds) required by section 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 Pasco County, Florida.
() OPTION (A)-Unless otherwise prohibited by law, the Sheriff is authorized to release the Defendant on electronic monitoring or other sentencing programs subject to the Sheriff's discretion
() OPTION (B)-The Sheriff is not authorized to release the Defendant on electronic monitoring or other sentencing programs
- ☐ 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 15 Years.
- ☐ 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 _____ 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 _____ imprisoned 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

Page _____ of _____

Defendant: Timothy James Hahn

Case Num: CRC0305288CFAES

SPN Num: 00435099

DOC Num:

Special Provisions

Other Provisions:

Criminal Gang Activity

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

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 828 jsw 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 the 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 composite term of all sentences imposed for the counts specified in this order shall run (check one)

Consecutive / Concurrent As To Other Convictions

— consecutive to ☒ concurrent with the following: (check one)

— any active sentence being served,

☒ specific sentences: CRC0303887CFAES

No Contact:

— It is further ordered that the defendant is prohibited from having contact with the Victim, directly or indirectly, including through a third person, for the duration of the sentence.

In the event the above sentence is to the Department of Corrections, the Sheriff of Pasco 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 indigence.

In imposing the above sentence, the court further recommends

* See attached victim information

Dated this 9 day of Sept 2014 in Pasco County, Florida.

NUNC PRO TUNC August 22, 2014

Lynn Tepper
Circuit Judge

STATE OF FLORIDA

CASE NO 0305288CFAES

VS

SPN 00435099

TIMOTHY JAMES HAHN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to:

(X) Personal Service to State Attorney for Sixth Judicial Circuit, Pasco County, Florida

() Personal Service () U.S. Mail

To: Attorney of Record
Address:

() Personal Service () U.S. Mail

To: __ Defendant
Address:

FILED FOR RECORD
PASCO COUNTY, FLORIDA
2014 SEP 15 AM 8:37
Paula S. O'Neil
Clerk & Comptroller
Pasco County, Florida

DATED this 15th day of September, 2014.

By:

Jackie Watkins

Deputy Clerk

Office of Paula S. O'Neil
Clerk & Comptroller
Pasco County, Florida



NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

OR BK 7655 PG 1275
2 of 2

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

TIMOTHY JAMES HAHN,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

Case No. 2D06-75

Opinion filed September 12, 2007.

Appeal from the Circuit Court for Pasco County;
Lynn Pepper, Judge.

Frank D.L. Winstead of Winstead Law Offices,
Land O' Lakes, for Appellant.

Bill McCollum, Attorney General, Tallahassee,
and Timothy A. Freeland, Assistant Attorney
General, Tampa, for Appellee.

PER CURIAM.

Affirmed.



NORTHCUTT, C.J., and SALCINES and DAVIS, JJ., Concur.

M A N D A T E

from



DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA

SECOND DISTRICT

435099

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

YOU ARE HEREBY COMMANDED THAT SUCH FURTHER PROCEEDINGS
BE HAD IN SAID CAUSE , IF REQUIRED, IN ACCORDANCE WITH THE OPINION OF
THIS COURT ATTACHED HERETO AND INCORPORATED AS PART OF THIS
ORDER, AND WITH THE RULES OF PROCEDURE AND LAWS OF THE STATE OF
FLORIDA.

JED PITTMAN, PASCO COUNTY CLERK
10/08/07 10:22am 1 of 2
OR BK 7655 PG 1274

WITNESS THE HONORABLE STEVAN T. NORTHCUTT CHIEF JUDGE OF THE
DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, SECOND DISTRICT,
AND THE SEAL OF THE SAID COURT AT LAKELAND, FLORIDA ON THIS DAY.

DATE: October 3, 2007

SECOND DCA CASE NO. 2D06-75

COUNTY OF ORIGIN: Pasco

LOWER TRIBUNAL CASE NO. 03-3887CFAES

CASE STYLE: TIMOTHY JAMES HAHN v. STATE OF FLORIDA

FILED FOR RECORD
PASCO COUNTY FLORIDA
2007 OCT -5 AM 11:30
JED PITTMAN, CLERK
CIRCUIT AND COUNTY COURT



James Birkhold
James Birkhold
Clerk

RAPPEAL DC

cc: (Without Attached Opinion)
Frank Winstead, Esq.

Timothy A. Freeland, A.A.G.

me



N/C

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT,
IN AND FOR PASCO COUNTY, FLORIDA

TIMOTHY J. HAHN,
Defendant,

vs.

STATE OF FLORIDA,
Plaintiff.

PROVIDED TO
SOUTH BAY CORRECTIONAL FACILITY
ON 5-19-14 TH FOR MAILING

Case No: 03-3887CFAES
03-05288CFAES

2014 MAY 23 AM 11:00
CLERK & COMPTROLLER
PASCO COUNTY, FLORIDA

MOTION TO CORRECT ILLEGAL SENTENCE

COMES NOW the Defendant, TIMOTHY J. HAHN, moving pro-se motions this court, pursuant to Florida Rule of Criminal Procedure 3.800(a), to correct the illegal sentence imposed in these cases and in support submits the following:

Defendant was charged by indictment September 17, 2003 with One Count of Murder in the First Degree contrary to chapter 782.04(1)(a) Fla. Stat. (Case No: 03-3887CFAES). On December 8, 2003 an information was filed against Defendant charging him with One Count of Attempted Murder in the First Degree contrary to chapter 782.04(1)(a) and 777.04 Fla. Stat. (Case No: 03-05288CFAES). These cases were then consolidated with no objection from defense counsel.

Defendant proceeded to jury trial November 28-30, 2005. The jury found Defendant not guilty of murder in the first degree in Case No: 03-3887CFAES, but did find Defendant guilty of the alleged lesser included offense of murder in the second. Chapter 782.04(2) Fla. Stat.

The jury also found Defendant not guilty of attempted murder in the first degree in case no: 03-05288CFAES, but did find Defendant guilty of lesser included offense of attempted murder in the second degree.

The trial court adjudicated Defendant guilty in both cases. According to the sentencing guidelines Defendant scored out to twenty-five (25) years-ten (10) months State prison. The trial court departed from the sentencing guidelines, using mitigating factors not found by Defendant's jury, and sentenced Defendant to life imprisonment in case no: 03-3887CFAES and thirty years imprisonment in case no: 03-05288CFAES both to run concurrent.

The Second District Court of Appeals per curiam affirmed the judgment and sentence and issued mandate on October 5, 2007.

Defendant's sentence is illegal insofar as it patently fails to comport with statutory and/or constitutional limitations and can be determined without an evidentiary hearing based upon the face of the record and as a matter of law.¹

ARGUMENT

Defendant was charged by indictment for murder in the first degree. The indictment read:

The Grand Jurors...charge that TIMOTHY JAMES HAHN...on the 15th day of September...two thousand three... from a "premeditated design" to effect the death of Todd Byers, a human being, did by striking the said Todd Byers with a motor vehicle, thereby inflicting upon the said Todd Byers mortal wounds, of which said mortal wounds, and by the means aforesaid and as a direct result thereof, the said Todd Byers died: "contrary to chapter

¹ See State v. Mancino, 714 So. 2d 429, 433 (Fla. 1998)(patently fails to comport with statutory or constitutional limitations); Hopping v. State, 708 So. 2d 263 (Fla. 1998)(resolved as a matter of law without and evidentiary determination).

782.04(1)(a), Florida Statutes.” and “against the peace and dignity of the State of Florida.” See indictment attached, emphasis added.

Due to the way the indictment was written in order to establish Defendant moved contrary to chapter 782.04(1)(a) the State had to prove Defendant killed Todd Byers from a premeditated design. As the record demonstrates the jury did not find Defendant guilty of premeditated murder but found Defendant guilty of an alleged lesser crime of murder in the second-degree.

Second-degree murder is defined as the unlawful killing of a human being, when perpetrated by any act imminently dangerous to another and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual. Fla. Stat. ch. 782.04(2), Sigler v. State, 805 So. 2d 32 (Fla. 4th DCA 2001).

Because Defendant’s indictment read, “from a premeditated design to effect the death of Todd Byers” Defendant could not be convicted of second-degree murder as a matter of law. The State did not prove Defendant killed Todd Byers from a premeditated design but got a conviction by constructively amending the indictment when it submitted to the jury the alleged lesser included crime of second-degree murder. See Zwick v. State, 730 So. 2d 759 (Fla. 5th DCA 1999).

A conviction on a charge not made by the indictment is a denial of due process of law. See State v. Gray, 435 So. 816, 818 (Fla. 1983); citing Thornhill v. Alabama, 310 U.S. 88 (1940). Because the trial court instructed the jury on crime not charged, the resulting verdict was a nullity. See Abbate v. State, 745 So. 2d 409, 410 (Fla. 4th DCA 1999); Gains v. State, 652 So. 2d 458 (Fla. 4th DCA 1995); Moore v. State, 496 So. 2d 255, 256 (Fla. 5th DCA 1986).

Because the judgment of guilt against Defendant was, and is null and void, the sentence of life cannot stand and must be vacated because it is illegal and unconstitutional, in case no: 03-3887CFAES. Defendant is "not" attacking the conviction. Defendant merely demonstrated that his right to equal protection and due process of law was violated when he was convicted of a crime not charged which stemmed from an unlawful amendment to a Grand Jury Indictment. No judge could lawfully sentence Defendant to prison for the unconstitutional adjudication of guilt.

Due to the unconstitutional conviction the alleged primary offense of murder in the second-degree would be removed from Defendant's guideline scoresheet as would the 116 points and the 240 points for victim injury.

The conviction for attempted murder in the second-degree would become the primary offense. Case no: 03-05288CFAES, attempted second degree murder is not listed in the offense severity ranking chart under Fla. Stat. § 921.0012. Attempted second-degree murder is a first degree felony. According to Fla. Stat. § 921.0013(3) the legislature ranked a felony of the first degree within offense level 7. At this level coupled with victim injury points Defendant's guidelines sentence would score out to 51 months State prison. If the court favored the State and held second degree murder under Fla. Stat. § 782.04(2) is ranked as a level ten offense under Fla. Stat. § 921.0012; the attempt Statute, Fla. Stat. § 777.04(4) specifically requires that the attempted offense be ranked one severity level below the severity ranking for the completed crime. See William v. State, 784 So. 2d 524 (Fla. 4th DCA 2001). This would put attempted second degree murder at level nine coupled with victim injury points Defendant's guidelines sentence would score out to 78 months State prison.

If murder in the second degree is a felony of the first degree punishable by life then an attempt would carry a maximum sentence of fifteen (15) years. See Hogan v. State, 427 So. 2d 202 (Fla. 4th DCA 1983). The sentence of thirty (30) years is illegal.

Defendant's sentence is also illegal because the trial court upward departed Defendant's guidelines sentence by factors not found by the jury. In Apprendi v. New Jersey, 530 U.S. 466 at 490 (2000), the Supreme Court held that the Sixth Amendment right to trial by jury requires application of this rule: "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." The Supreme Court then held in Ring v. Arizona, 536 U.S. 584 (2002). "If a State makes an increase in a defendant's authorized punishment contingent on the finding of a fact, that fact-no matter how the State labels it-must be found by a jury beyond a reasonable doubt."

Defendant scored out to 310.5 months State prison.² The trial court then claimed, "the victim suffered extraordinary physical or emotional trauma permanent physical injury (or 2) victim was physically attacked by defendant in the presence of one or more members of the victim's family. See guidelines scoresheet attached. These alleged facts were not found by a jury. The trial court then sentenced Defendant to life without parole in case no; 03-3887CFAES and thirty years in case no 03-05288CFAES, to run concurrent. Defendant's sentence is illegal and violates State and Federal law. Under the Supreme Court's interpretation of the Sixth Amendment, the Sixth Amendment does not permit a sentencing judge, sitting without a jury, to find an aggravating circumstance necessary to upward depart from a guidelines sentence. See also Campbell v. State, 571 So. 2d 415, 420 (Fla. 1990). Campbell, as subsequently interpreted by the Supreme Court requires a trial judge to assign a weight to each aggravating factor and also

² As discussed above this score was based on a conviction for a crime not charged.

to each mitigating factor that he or she deems has been established. The sentencing order clearly does not comply with the requirements of Campbell.

Defendant submits that it is technically unclear which victim the trial court was referring to but, for the sake of argument Defendant will assume the trial court was referring to Patricia Byers in case no: 03-05288CFAES. The trial court sentenced Defendant to "thirty years" for "attempted second degree murder." The trial court then used these same alleged mitigating factors to sentence Defendant to life in case 03-3887CFAES. Again, Defendant's sentence is illegal and violates State and Federal law.

In Valdes v. State, 765 So. 2d 774, 776 (Fla. 1st DCA 2000) the court held, "Nor do we think that a sentence is necessarily illegal merely because the error is one that is apparent on the face of the record." The Supreme Court defined an illegal sentence in State v. Mancino, 714 So. 2d 429, 433 (Fla. 1998) as a sentence that 'patently fails to comport with statutory or constitutional limitations.' By this definition a sentence can only be illegal if it was not authorized by statute or it was imposed in violation of a constitutional right."

WHEREFORE, based upon the foregoing facts, arguments, authorities, and records and files, Defendant prays this court will grant this motion correct the illegal sentences, and provide other such just and proper relief deemed appropriate toward the challenged sentences.

Respectfully Submitted,



Timothy J. Hahn, DC #169360
South Bay Correctional Facility
P.O. Box 7171
South Bay, Fla. 33493

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT OF
THE STATE OF FLORIDA IN AND FOR PASCO COUNTY

STATE OF FLORIDA

v.

Case No. 03-3887CFAES
UCN: 512003CF003887A000ES
Case No. 03-5288CFAES
UCN: 512003CF005288A000ES

TIMOTHY J. HAHN
SPN:00435099

**ORDER DENYING IN PART AND DIRECTING STATE TO RESPOND IN PART TO
DEFENDANT'S MOTION TO CORRECT ILLEGAL SENTENCE**

THIS CAUSE came before this Court on Defendant's *pro se* Motion to Correct Illegal Sentence filed on May 23, 2011, pursuant to Florida Rule of Criminal Procedure 3.800(a). After considering the motion, the record, and applicable law, this Court finds as follows:

Defendant was indicted on September 9, 2003 for capital murder in the first degree in case number 03-3887CFAES. Based on the same incident, Defendant was also charged with attempted murder in the first degree on December 8, 2003 in case number 03-5288CFAES. See *Exhibit A: Indictment; Exhibit B: Felony Information*. On November 30, 2005, the Defendant was convicted after a jury trial of the lesser charges of murder in the second degree in case number 03-3887CFAES and of the lesser attempted murder in the second degree in case number 03-5288CFAES. The Defendant was sentenced to a term of life imprisonment on the murder charge and to 30 years' imprisonment on the attempted murder charge, sentences to run concurrently with each other. See *Exhibits C and D: Judgments and Sentences*. The Defendant filed a direct appeal of his judgments and sentences, and the Second District Court of Appeal subsequently affirmed. The mandate issued on July 1, 2010.

Pursuant to Florida Rule of Criminal Procedure 3.800(a), a court may correct a defendant's illegal sentence at any time. Fla. R. Crim. P. 3.800(a). A sentence is illegal if it is one that no judge could have possibly imposed for the crime charged under the entire body of sentencing law under any set of factual circumstances. *Carter v. State*, 786 So. 2d 1173, 1178 (Fla. 2001). The burden is on the party seeking relief to show why the sentence is illegal. *Prieto v. State*, 627 So. 2d 20, 21 (Fla. 2d DCA 1993). If correcting the error would yield the same outcome as the original sentence, then the error is considered harmless. *Gibbons v. State*, 543

6-27-14 CRM BK

So. 2d 860, 861 (Fla. 2d DCA 1989). In his motion, the Defendant presents two grounds for relief. The Court has separated the claims, and has identified them as follows:

Ground One:

The Defendant argues that his sentences are illegal because he was convicted of charges not made in the indictment or in the information. A motion to correct an illegal sentence filed pursuant to Florida Rule of Criminal Procedure 3.800(a) must state a claim that challenges the basis for the sentence rather than the basis for the judgment. See Prince v. State, 903 So. 2d 1068 (Fla. 2d DCA 2005). Defendant's claim that his sentences are illegal because his convictions are improper is not cognizable under rule 3.800(a). See Shortridge v. State, 884 So. 2d 321 (Fla. 2d DCA 2004). Rather, such claims should be raised on direct appeal. Sampson v. State, 845 So. 2d 271 (Fla. 2d DCA 2003). The motion as to this claim lacks merit and is denied.

Ground Two:

The Defendant alleges that his sentences are illegal because the trial court imposed an "upward departure" sentence based on factors not found by the jury, in violation of Apprendi v. New Jersey, 530 U.S. 466 (2000). The Defendant appears to contend that his sentences violate Apprendi because a jury in his case never found beyond a reasonable doubt the factors that would increase the penalty for his crimes beyond the prescribed statutory maximum penalty. Apprendi held that any fact that increases a sentence beyond the statutory maximum penalty must be found by a jury, unless the fact is that of a prior conviction. Apprendi, 530 U.S. at 490.

The Defendant was convicted in case number 03-3887CFAES of one count of murder in the second degree, a felony of the first degree, punishable by life. See § 782.04(2), Fla. Stat. The Court was therefore permitted to sentence Defendant to a term of years not exceeding life. The sentence of life imprisonment imposed in case number 03-3887CFAES is therefore a legal sentence.

The Court sentenced Defendant to a concurrent 30 year sentence for his conviction of attempted second-degree murder, under § 782.04(2), Fla. Stat. in case number 5288CFAES. Attempted second degree murder is a second degree felony. See § 777.04(4)(c), Fla. Stat. The statutory maximum penalty for a second degree felony is fifteen years in prison. §775.082(3)(c), Fla. Stat. Therefore, the State is directed to respond to the Defendant's claim of an illegal sentence as to case number 03-5288CFAES.


Accordingly, it is

State v. Hahn, Case Nos. 03-3887CFAES; 03-5288CFAES

ORDERED AND ADJUDGED that the State is directed to respond to the Defendant's claims in Ground Two as to case number 03-5288CFAES, as more fully explained above.

THE DEFENDANT IS NOTIFIED that this is **not** a final order and that he **should not** a motion for rehearing or an appeal until a final order is entered in this case.

DONE AND ORDERED in Chambers at Dade City, Pasco County, Florida, this 26th day of June, 2014.


Pat Siracusa, Circuit Judge

Copies to:

State Attorney

Timothy J. Hahn, DC# 169360
South Bay Correctional Institution
P.O. Box 7171
South Bay, FL 33493

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT OF THE
STATE OF FLORIDA IN AND FOR PASCO COUNTY

STATE OF FLORIDA

v.

TIMOTHY JAMES HAHN
SPN# 00435099

Case No. 03-3887CFAES
UCN: 512003CF003887A000ES
Case No. 03-5288CFAES
UCN: 512003CF005288A000ES

**FINAL ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANT'S MOTION TO CORRECT ILLEGAL SENTENCE**

THIS MATTER came before this court on the *pro se* Defendant's Motion to Correct Illegal Sentence, pursuant to Florida Rule of Criminal Procedure 3.800(a), filed on May 23, 2014. The Court hereby adopts and incorporates by reference its previous order entered on June 27, 2014. After considering the motion, the State's response on July 3, 2014, the record, and applicable law, this Court finds as follows:

In case number 03-3887CFAES, the Defendant was indicted on September 9, 2003 for capital murder in the first degree. Based on the same incident, the Defendant was charged on December 8, 2003, with attempted murder in the first degree in case number 03-5288CFAES. *Exhibits A and B: Indictment and Felony Information.* On November 30, 2005, the Defendant was convicted by a jury of the lesser charge of murder in the second degree (case number 03-3887CFAES) and of the lesser attempted murder in the second degree (case number 03-5288CFAES). The court sentenced the Defendant to life imprisonment on the murder charge and to thirty years' imprisonment for attempted murder, the sentences to run concurrently with each other. *Exhibits B and D: Judgments and Sentences.* The Defendant filed a direct appeal, which was affirmed by the Second District Court of Appeal. The mandate issued on July 1, 2010. The Defendant's motion raises two grounds for relief. The court has separated the claims and labels them as Ground One and Ground Two.

Ground One

In ground one, the Defendant claims that his sentences are illegal because he was convicted of charges not made in the indictment or in the information. The court previously found that this claim was not cognizable in a rule 3.800(a) motion, and should

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Teresa S. O'Neil
Clerk & Computer
Pasco County, Florida

ccm - done - H. A.

have been raised, if at all, on direct appeal. Sampson v. State, 845 So. 2d 271 (Fla. 2d DCA 2003). This claim is denied.

Ground Two

Here, the Defendant alleges that his sentences are illegal because the trial court imposed “upward departure” sentences based on factors not determined by a jury. See Apprendi v. New Jersey, 530 U.S. 466 (2000). The court denied this claim as to Defendant’s conviction for second-degree murder, as the life sentence imposed on this first-degree felony does not exceed the statutory maximum penalty. See § 782.04(2), Fla. Stat. The court directed the State to respond to the claim that the thirty year sentence in case number 03-5288CFAES for attempted second-degree murder is an illegal sentence. The thirty-year sentence exceeds the statutory maximum penalty of fifteen years for a second-degree felony. On July 2, 2014, the State responded that the Defendant is entitled to resentencing on this charge. Therefore, the Court grants Defendant’s claim that the thirty-year sentence imposed for attempted second-degree murder is an illegal sentence. See § 782.04(1); 777.04, Fla. Stat.

On August 22, 2014, the Defendant was resentenced in case number 03-5288CFAES to 15 years’ imprisonment for one count of attempted second-degree murder. The sentence was ordered to be served concurrently to the life sentence imposed in case number 03-3887CFAES.

Accordingly it is

ORDERED AND ADJUDGED that Ground One of the Defendant’s May 23, 2014 Motion to Correct Illegal Sentence is hereby **DENIED**. It is further

ORDERED AND ADJUDGED that the claim raised in Ground Two as it relates to the Defendant’s second-degree murder conviction in case number 03-3887CFAES is hereby **DENIED**. The claim raised in Ground Two as it relates to the Defendant’s conviction for attempted second-degree murder in case number 03-5288CFAES is hereby **GRANTED**. The Defendant was resentenced on August 22, 2014, in accordance with this ruling.

The Defendant has thirty (30) days from the date of this order to file an appeal

should he choose to do so.

DONE AND ORDERED in chambers in Dade City, Pasco County, Florida, this
24th day of September, 2014.



Pat Siracusa, Circuit Judge

Copies to:

State Attorney

Timothy J. Hahn, DC# 169360
South Bay Correctional Facility
P.O. Box 7171
South Bay, Florida 33493

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

TIMOTHY J. HAHN,
Appellant,
v.
STATE OF FLORIDA,
Appellee.

Case No. 2D14-5516

Opinion filed May 20, 2015.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Pasco County; Pat Siracusa, Judge.

Timothy J. Hahn, pro se.

PER CURIAM.

Affirmed. See Betancourt v. State, 804 So. 2d 313 (Fla. 2001); Kirkland v. State, 684 So. 2d 732 (Fla. 1996); Shortridge v. State, 884 So. 2d 321 (Fla. 2d DCA 2004); Olsen v. State, 751 So. 2d 108 (Fla. 2d DCA 2000); Chavers v. State, 115 So. 3d 1017 (Fla. 1st DCA 2013).

ALTENBERND, SILBERMAN, and LaROSE, JJ., Concur.

M A N D A T E

from

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA

SECOND DISTRICT

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

YOU ARE HEREBY COMMANDED THAT SUCH FURTHER PROCEEDINGS
BE HAD IN SAID CAUSE, IF REQUIRED, IN ACCORDANCE WITH THE OPINION OF
THIS COURT ATTACHED HERETO AND INCORPORATED AS PART OF THIS ORDER,
AND WITH THE RULES OF PROCEDURE AND LAWS OF THE STATE OF FLORIDA.

WITNESS THE HONORABLE CRAIG C. VILLANTI CHIEF JUDGE OF THE
DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, SECOND DISTRICT, AND
THE SEAL OF THE SAID COURT AT LAKE LAND, FLORIDA ON THIS DAY.

DATE: July 8, 2015

SECOND DCA CASE NO. 2D14-5516

COUNTY OF ORIGIN: Pasco

LOWER TRIBUNAL CASE NO. 03-3887-CFAES

CASE STYLE: TIMOTHY J. HAHN

v. STATE OF FLORIDA



cc: (Without Attached Opinion)

Attorney General

Timothy J. Hahn

mep

James Birkhold
James Birkhold
Clerk
Pasco County, Florida

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PASCO COUNTY, FLORIDA
2015 JUL 10 AM 10:47


<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 \(/cc/index.html\)](#)
[Programs \(/development/index.html\)](#)
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[Newsroom \(/comm/index.html\)](#)
[Statistics \(/pub/index.html\)](#)
[Contact Us \(http://www.dc.state.fl.us/citizen/index.html\)](#)

Corrections Offender Network

Inmate Population Information Detail

(This information was current as of 8/6/2023)



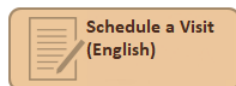
DC Number: 169360
Name: HAHN, TIMOTHY J
Race: WHITE
Sex: MALE
Birth Date: 08/28/1980
Initial Receipt Date: 12/15/2005
Current Facility: [SOUTH BAY C.F. \(http://prod.fdc-wpws001.fdc.myflorida.com/org/facilitydir.html#X405\)](http://prod.fdc-wpws001.fdc.myflorida.com/org/facilitydir.html#X405)
Current Custody: CLOSE
Current Release Date: SENTENCED TO LIFE



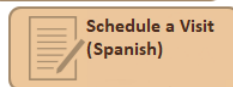
<https://www.vinelink.com/vinelink/servlet/SubjectSearch?siteID=10000&agency=900&offenderID=169360>

Confinement Status: Not in Confinement

Visitation Status: NOT SUSPENDED



<https://fs24.formsite.com/rBvOpW/c7xkomdtls/index.html>



<https://fs24.formsite.com/rBvOpW/pgrlzdt2fv/index.html>

[Visitation Application Form - Part 1 \(http://prod.fdc-wpws001.fdc.myflorida.com/ci/visit/405.pdf\)](http://prod.fdc-wpws001.fdc.myflorida.com/ci/visit/405.pdf)

[Visitation Application 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:

TIMOTHY J HAHN, TIMOTHY J. HAHN, TIMOTHY JAMES HAHN, TIMOTHY JAMES HANN

Current Prison Sentence History:

Offense Date	Offense	Sentence Date	County	Case No.	Prison Sentence Length
09/15/2003	1ST DG MUR/PREMED. OR ATT.	11/30/2005	PASCO	0303887	SENTENCED TO LIFE
09/15/2003	2ND DEG.MURD,DANGEROUS ACT(ATTEMPTED)	11/30/2005	PASCO	0305288	15Y 0M 0D

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
12/15/2005	Currently Incarcerated

First

Previous

Next

Last

Return to List

New Search

Record: 1 of 1

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: hahn First Name: timothy 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.

Quick Links

[Contact an Inmate](http://www.dc.state.fl.us/ci/ContactInmate.htm)
(<http://www.dc.state.fl.us/ci/ContactInmate.htm>)

[Public Records](http://www.dc.state.fl.us/comm/PRR.html)
(<http://www.dc.state.fl.us/comm/PRR.html>)

[Volunteer](http://www.dc.state.fl.us/volunteer/index.htm)
(<http://www.dc.state.fl.us/volunteer/index.htm>)

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

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

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

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

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

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

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

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

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

Contact Us
(<http://www.dc.state.fl.us/citizen/index.htm>)

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