

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

THOMAS ARNOLD
Petitioner

Vs.

STATE OF FLORIDA
Respondent

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APPENDIX A

DENIAL OF PETITION FOR WRIT OF MANDAMUS FLA. SUPREME COURT
DATED MARCH 19, 2024 CASE NO.: SC2024-0272

Supreme Court of Florida

TUESDAY, MARCH 19, 2024

Thomas J. Arnold,
Petitioner(s)

v.

State of Florida,
Respondent(s)

SC2024-0272

Lower Tribunal No(s).:

1D2022-3838;

371990CF002999AXXXX

Because Petitioner has failed to show a clear legal right to the relief requested, he is not entitled to mandamus relief. Accordingly, the petition for writ of mandamus is hereby denied. *See Huffman v. State*, 813 So. 2d 10, 11 (Fla. 2000). No motion for rehearing will be entertained.

CANADY, LABARGA, COURIEL, GROSSHANS, and SASSO, JJ.,
concur.

A True Copy

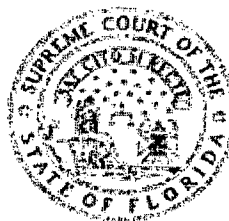
Test:

SC2024-0272 3/19/2024

John A. Tomasino

Clerk, Supreme Court

SC2024-0272 3/19/2024



LC

Served:

THOMAS J. ARNOLD

CRIMINAL APPEALS TLH ATTORNEY GENERAL

1DCA CLERK

LEON CLERK

APPENDIX B

STATE PETITION FOR WRIT OF MANDAMUS IN FLA. SUPREME COURT

IN THE SUPREME COURT OF FLORIDA

THOMAS ARNOLD
Petitioner

v.

STATE OF FLORIDA
Respondent

Case No: SC2024-0272

Appeal No.: 1D2022-3838

L.T. No.: 1990-CF-2999

provided to Gracerville Correctional Facility
on 2/15/24 for mailing
by TA

PETITION FOR WRIT OF MANDAMUS

Pursuant to Rule 9.100, Thomas Arnold, petitions this Court for writ of mandamus compelling the First District Court of Appeal to reinstate Petitioner's appeal of right in Case No.: 1D2022-3838 dismissed on February 1, 2024.

I. BASIS FOR INVOKING JURISDICTION

Article V § 3(b)(8), of the Florida Constitution provides that the Florida Supreme Court with jurisdiction to issue writs of mandamus. See also Fla.R.App.P. 9.030 (a)(3) *original jurisdiction*. This petition is timely under Rule 9.100(c)(1). mandamus is the proper remedy since the District Court of appeal has a clear legal ministerial duty to review decisions of the lower court and Petitioner has a clear legal right to appeal a final order. See Fla.R.App.P. 9.141, and Art. V § 4(b)(1), Florida Constitution. Petitioner has no other available remedy to obtain for relief.

II. STATEMENT OF FACTS

This Petitioner's was an Appellant in the First District Court of Appeal, Case No: 1D2022-3838 appealing a denial of a postconviction/habeas proceeding alleging illegal detention due to a sentencing by the circuit court not authorized by statute.

The Petitioner has been previously barred from filing pro se in the Appellate Court under ruling in Case No.:1D2016-3009 concerning the Second Judicial Circuit Court case No.1990-CF-2999.

On September 14, 2022, Counsel in good standing of the Florida Bar filed for Petitioner, a Petition for Writ of Habeas Corpus alleging illegal detention due to sentence not being authorized by statute where only review available is under the manifest injustice exception.

Counsel David W. Collins Florida Bar# 475289 reviewed Petitioner's case and found merit in Petitioner's claim. Petitioner hired Mr. Collins to file the original Writ of Habeas Corpus and if upon denial by the postconviction court, file the notice of appeal in compliance with the Appellate court's ruling in case No.: 1D2016-3009. As briefs are not required in accordance Fla.R.App.P. 9.141(b) additional counsel is not needed once the appeal is initiated by notice of appeal. Petitioner is without additional funds to hire

counsel for representation if needed if the Appellate Court orders a brief, reply or response .

On October 27, 2022, The postconviction court dismissed the Writ of Habeas Corpus (construing the habeas petition as a post-conviction relief motion) ruling collateral estoppel under ruling in *Dixon v. State*, 730 So. 2d 265, 269 (1999), a motion for rehearing was not filed.

On November 21, 2022, Petitioner's counsel E-filed a notice of appeal to the Circuit Court and the Office of the State Attorney.

On December 1, 2022, the Notice of Appeal (Signed by counsel in good standing of the Florida Bar) was filed, reflecting a filing date in the lower tribunal of November 21, 2022.

On January 4, 2023 Counsel Collins filed motion to withdraw as counsel and filed an amended motion for leave to withdraw as counsel on Feb. 8, 2022 stating that the notice of appeal was filed to preserve Petitioner's Appellate Rights. Counsel had met his duty when he filed the Notice of Appeal since briefs are not required in this type of appellate procedure.

On February 1, 2024 the First District Court of Appeal dismissed Petitioner's appeal due to sanctions previously issued in Case No.: 1D2016-3009.

III. THE NATURE OF RELIEF SOUGHT

The nature of relief sought by this petition is a writ of mandamus compelling the First District Court of Appeal to reinstate Petitioner's appeal. Additional relief is requested, Petitioner also moves this Honorable Court to compel the District Court if that court order's briefing, reply's or responses to appoint appellate counsel due to due process considerations or allow Petitioner's pro se filings in this appeal.

IV. ARGUMENT

When a criminal appellant has been sanctioned for repetitive filings, the appellant must comply with the court's order to have any further actions for relief in that court to be filed under the signature of a member of the Florida Bar in good standing. *Kendrick v. Jones*, 234 So. 3d 574 (Fla. 2018). The Petitioner has meet this standard when he retained counsel David Collins.

Once the gatekeeper of counsel's signature has been met the appellate court has a duty to process the appeal in accordance with Fla.R.App.P. 9.141(b). Appellate counsel is not needed after the filing in the Circuit Court of the notice of appeal, as briefs or responses are not required under Fla.R.App.P. 9.141 (c) unless ordered by the court.

No provision has been ordered by statute or other that "indigent appellant's" must retain counsel through the appeal process, to do so would deny appellant's due process of law simply because they cannot afford counsel. See *Ross v. Moffitt*, 417 U.S. 600, 607, 41 L.Ed.2d. 341, 94 S.Ct. 2437 (1974) holding a State cannot cut off appeal rights for indigents while leaving open avenues of appeal for more affluent persons.

Because Petitioner is barred from pro se filings, and if ordered by the District Court to file briefs, reply's or responses in the appeal the Appellate Court must appoint counsel due to due process considerations. See *Russo v. Akers*, 724 So. 2d 1151 (Fla. 1998). If Appellate counsel is not appointed Petitioner would be barred from the court's again because he has spent all his available funds to obtain counsel in the postconviction court to file the habeas petition and the notice of appeal and is without funds for an appellate attorney.

Appellate relief is available and the procedural bar is overcome as Petitioner's has a valid legal claim that postconviction counsel found merit in and relief available under the manifest injustice exception. See *Magard v. State*, 790 So. 2d 506 (Fla. 5th DCA 2001) ("However, contrary to Maggard's characterization, such an order does not completely bar a defendant from this court. Such defendants simply need to have a valid

legal claim, as recognized by a responsible, licensed Florida attorney.”).

Counsel would not have filed a frivolous, or malicious petition in the Circuit Court nor would have filed a notice of appeal if the claim did not have merit. See *The Florida Bar v. Rush*, 361 So. 3d 796 (Fla. 2023) (“R. Regulating Fla. Bar 4-3.1 states a lawyer shall not bring or defend a claim unless there is a basis in law and fact for doing so that is not frivolous.”). Petitioner's claim is not successive as the postconviction court has not attached to its denial a previous ruling on the merits. See *Williams v. State*, 244 So. 3d 1173 (Fla. 2d DCA 2018)

“The summary record does not demonstrate that the postconviction court has previously ruled on the merits of this particular claim. Although the postconviction court reasoned that it denied a similar claim, the October 19, 2015, order does not demonstrate that this specific issue was previously addressed on the merits. See *Fuston*, 764 So. 2d at 780. The summary record before this court does not otherwise conclusively refute Williams' claim that his sentences are illegal for exceeding the statutory maximum.”

Also see *Jordan v. State*, 32 So. 3d 727 (Fla. 1st DCA 2010) and *Holton v. State*, 51 So. 3d 1164 (Fla. 1st DCA 2010), and *Brown v. State*, 688 So. 2d 976 (Fla. 1st DCA 1997).

Because the Appellate court incorrectly dismissed Petitioner's appeal, that the Appellate Court has a ministerial duty to process appeals in accordance with Florida Rules of Criminal Procedure, and Petitioner has

overcome the procedural bar by having counsel to file the notice of appeal, and Petitioner has no other avenue of relief than mandamus. The First District Court of Appeal should be directed to reinstate Petitioner's appeal in case 1D2022-3838 and also directed if additional filing are ordered by the Appellate Court the court shall appoint counsel due to due process and equal protection considerations.

OATH

Under penalties of perjury, I declare that I have read the foregoing motion, that I understand the motion's content, and that all of the facts alleged in the motion are true and correct.

/s/ Thomas Arnold
Thomas Arnold, DC# 100520
Petitioner, *pro se*

Certificate of Service

I certify that I placed this document in the hands of institution officials for mailing¹ to: Office of the Attorney General, The Capitol, PL-01, Tallahassee, FL 32399-1050 on this 15 day of February 2024

/s/ Thomas Arnold
Thomas Arnold, DC# 100520
Petitioner, *pro se*
Graceville Correctional Facility
5168 Ezell Road
Graceville, Florida 32440

¹This document is timely Pursuant to ***Fla. R. Jud. Admin. 2.514 (b)*** "Additional Time after Service by Mail" When a party may or must act within a specified time after service and service is made by mail, 5 days are added after the period that would otherwise expire under subdivision (a).

IN THE SUPREME COURT OF FLORIDA

THOMAS ARNOLD
Petitioner

v.

STATE OF FLORIDA
Respondent
_____ /

Case No: SC2024-0272

Appeal No.: 1D2022-3838

L.T. No.: 1990-CF-2999

TABLE OF APPENDICES

- A. Order dismissing appeal Case No.: 1D2022-3838 dated February 1, 2024
- B. Notice of Appeal filed in the Circuit Court w/ order denying Petitioner's writ of habeas corpus
- C. Amended Motion to Withdraw as counsel
- D. Order of the DCA issuing Sanctions Case No.: 1D16-3009 dated Aug. 25, 2016
- E. Order of Insolvency issued by the Circuit Court

APPENDIX C

DISMISSAL OF STATE POST CONVICTION APPEAL FLA. FIRST DCA
DATED FEBRUARY 1, 2024

DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive,
Tallahassee, Florida 32399-0950
Telephone No. (850) 488-6151

February 1, 2024

Thomas Arnold VS State of Florida **Case 1D2022-3838**
L.T. No.: 1990-CF-2999

BY ORDER OF THE COURT:

On August 25, 2016, in Case No. 16-3009, this court barred the appellant from future pro se filings in this court concerning Case Number 1990-CF-002999, Leon County Circuit Court. This appeal concerns that same Leon County case. Although retained counsel filed a notice of appeal on the appellant's behalf, it is clear from the record that counsel did so only in his capacity as counsel in the trial court.

The appellant has filed a notice with this court that retained counsel no longer is representing him in this appeal. No other lawyer has attempted to enter an appearance on behalf of the appellant. Retained counsel twice sought to withdraw, and this court denied both of those requests. In the second motion to withdraw, counsel certified that he sent a copy of the motion to the appellant, but he failed to provide an address as required by rule 9.440(d). The appellant nevertheless is aware of his counsel's effort to withdraw, and this court reminded the appellant of the August 25, 2016, bar order and the need to secure alternative counsel.

Under the circumstances as set out above, the court sua sponte withdraws its February 10, 2023, order denying counsel's amended motion to withdraw. That motion is now granted, counsel for the appellant is permitted to withdraw from representation, and this appeal is administratively dismissed pursuant to the aforementioned bar order.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

APPENDIX D

COUNSEL'S MOTION TO WITHDRAW AS COUNSEL

IN THE DISTRICT COURT OF APPEAL OF FLORIDA,
FIRST DISTRICT

THOMAS ARNOLD,
Petitioner/Defendant,

v.

Case No.: 1D22-3838
L.T. Case No. 1999-CF-2999

STATE OF FLORIDA,
Respondent/Plaintiff

AMENDED MOTION TO WITHDRAW

The undersigned counsel hereby files this Amended Motion to Withdraw. As grounds to support said request, counsel submits the following:

1. Undersigned Counsel was retained in the Circuit Court of the Second Judicial Circuit.
2. Undersigned Counsel only filed the notice of appeal to preserve the Defendant's appellate rights.
3. Due to such undersigned counsel was not retained for an appeal and wishes to withdraw.

WHEREFORE, based upon the aforementioned grounds, the undersigned counsel requests that this Court enter an order allowing counsel to withdraw from any further representation in this matter.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed via e-portal and was delivered electronically to the, Office of the Attorney General, crimapptlh@myfloridalegal.com and certified mail to Thomas Arnold on this 8th day of February 2023.

/s/ David Collins
DAVID COLLINS, Esq.
Fla. Bar No.: 475289
P.O. Box 541
Monticello, FL 32344
Phone: (850) 997-8111
E-mail: collins.fl.law@gmail.com

APPENDIX E

COUNSEL'S NOTICE OF APPEAL TO THE CIRCUIT COURT

IN THE CIRCUIT COURT FOR THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

THOMAS ARNOLD,
Petitioner/Defendant,

v.

Case No.: 1990-CF-2999

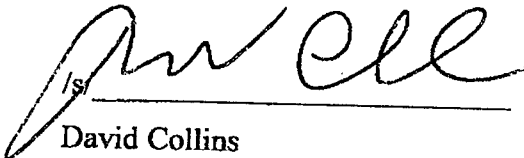
STATE OF FLORIDA,
Respondent/Plaintiff.

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that the Defendant/Petitioner, Thomas Arnold, appeals to the First District Court of Appeal the order of this Court rendered on October, 27, 2022. The nature of the order is a final order dismissing Petitioner's Writ of Habeas Corpus construed as a Motion for Postconviction Relief.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this petition was furnished to the Clerk of Court and the Office of the State Attorney, 301 South Monroe St., Tallahassee Fla. 32301 by electronic mail, this 21ST day of November, 2022.


/s/ _____

David Collins
Fla. Bar # 475289
PO Box 541
Monticello, Florida 32344
(850) 997-8111

Postconviction Counsel for Defendant Arnold

APPENDIX F

POST-CONVICTION COURT'S DISMISSAL OF STATE WRIT OF HABEAS CORPUS

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

STATE OF FLORIDA,

v.

CASE NO.: 1990 CF 2999

THOMAS ARNOLD,

Defendant.

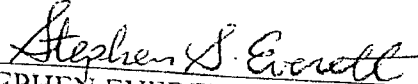
ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS

THIS CAUSE is before the Court on the Defendant's Petition for Writ of Habeas Corpus, filed on September 14, 2022. The Court having reviewed the Motion, the case file, and being otherwise fully informed, hereby finds Defendant's Petition, which this Court construes as a Motion for Postconviction Relief, is procedurally barred. As the Motion states, Defendant has raised this claim numerous times before. However, the Court continues to be bound by *Dixon v. State*, 730 So. 2d 265, 269 (Fla. 1999) ("We reiterate that in order to receive the benefit of our decision . . . defendants must have already filed their 3.850 motion seeking *Hale* relief, *at the very latest*, within two years of the date our mandate in *Calloway* issued on August 16, 1995.") (emphasis supplied); *see also Burgess v. State*, 831 So. 2d 137 (Fla. 2002).

It is therefore,

ORDERED AND ADJUDGED that Defendant's Petition for Writ of Habeas Corpus, construed as a Motion for Postconviction Relief, is hereby DISMISSED. Defendant has **30 days from the date this order is rendered** in which to file a notice of appeal.

DONE AND ORDERED in Chambers, Tallahassee, Leon County, Florida this 27th day of October 2022.


STEPHEN EVERETT
CIRCUIT JUDGE

Copies to:
State Attorney's Office

David Collins, Esq., Attorney for Defendant

Thomas Arnold, Defendant DC# 100520
Graceville Correctional and Rehabilitation Facility (Male)
5168 Ezell Road
Graceville, FL 32440

APPENDIX G

PETITION FOR STATE WRIT OF HABEAS CORPUS IN THE CIRCUIT COURT
DATED OCT. 27, 2024 **ORIGINAL E-FILED BY COUNSEL**

**IN THE CIRCUIT COURT FOR THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA**

**THOMAS ARNOLD,
Petitioner,**

v.

Case No.: 1990-CF-2999

**STATE OF FLORIDA,
Respondent,**

PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW, the Petitioner, Thomas Arnold, through counsel petitions this Honorable Court to issue writ of habeas corpus pursuant to Fla. R. Crim. P. Rule 3.850(m). This is an original proceeding to correct the illegal detention of Petitioner and the error is on the face of the record. Petitioner avers the following laws and facts in support of this motion:

I. BASIS FOR INVOKING JURISDICTION

This Honorable Court has jurisdiction to issue writs of habeas corpus under Article V section 5(b) of the Florida Constitution and Florida Rules of Criminal Procedure Rule 3.850(m). The Second Judicial Circuit Court in and for Leon County, Florida entered the judgment and sentence The Petitioner has not failed to apply for relief and no other remedy than habeas corpus would be adequate to correct the unlawful detention of the Petitioner¹.

¹ When the validity of a sentence or Judgment is in question the Jurisdiction for issuance of writs of habeas corpus review is with the trial court. *Collins v. State*, 859 So.2d 1244, 1245 (Fla.

II. STATEMENT OF CASE AND FACTS

On August 3, 1990 the Petitioner was charged by amended information with Armed Robbery with a firearm (Counts 1, 2, and 3) and Armed Kidnapping (Counts 4, 5, and 6). (Exhibit A; Amended Information).

On April 3, 1991 the Petitioner entered into a negotiated plea agreement with the State to the lesser offenses of Strong Armed Robbery (Counts 1, 2, and 3), second degree felonies and False Imprisonment (Counts 4, 5, and 6), third degree felonies, with a stipulation of no agreement to the sentence. After receiving the facts the Court accepted the negotiated plea. The State then moved the Court for a habitual sentence. The Court found the Petitioner to qualify as a Habitual Violent Felony Offender (HVFO).(Exhibit B; Plea and Sentencing Transcripts).

The Court then sentenced the Petitioner to 15 years as an HVFO on counts 1, 2, and 3 and 10 years as an HVFO on Counts 4, 5, and 6 with a 10 year minimum mandatory. The Court ran Counts 1, 2, and 3 consecutive, and Counts 4, 5, and 6 consecutive to each other, but concurrent with Counts 1, 2, and 3. The Court then ordered Case 1990-cf-2999 to run consecutive to case No.: 1990-cf-3870. (Exhibit C; Judgment and Sentence).

1st DCA 2003).

Petitioner appealed “arguing that the trial court failed to make the necessary findings under the statute.” *Arnold v. State*, 611 So.2d 21 (Fla. 1st DCA 1992), quashed in *State v. Arnold*, 620 So.2d 1129 (Fla. 1993).

The Petitioner has challenged the illegal consecutive HVFO sentencing of the six (6) counts that occurred in a single criminal episode in prior motions pursuant to *Hale v. State*, 630 So.2d 521 (Fla. 1993). All motions were summarily denied without attaching portions of the record to refute to the Petitioner's claim. The Petitioner appealed each denial, which was per curiam affirmed.

As of August 21, 2008 Mr. Arnold completed the 35 year sentences imposed in Case No. 1990-cf-3870, Leon County Judicial Circuit Court with basic gain of 1/3 off his terms of sentence on each case and received incentive gain time of 20 days per month under the 1990 statutes. Upon completion of terms in case 1990-cf-3870, Mr. Arnold began serving the sentence in the present case.

As of September 16, 2017 Mr. Arnold completed Count 1, 15 years HVFO, and Count 4, 10 years HVFO sentence for the present case (1990-cf-2999). The Petitioner receives incentive gain time of 20 days per month under the 1990 statutes. (Exhibit D; FDOC Records).

On July 10, 2019 Petitioner filed a Rule 3.850(b) Motion For Postconviction Relief to vacate sentencing in excess of that authorized by the Habitual Offender Statute in the present case pursuant to *Hale v. State*, 630 So.2d 521 (Fla. 1993) (remanded petitioner's consecutive sentences for two charges arising out of one criminal episode, because the habitual offender statute only permitted concurrent sentences, where the underlying charges carried minimum mandatory terms).

On July 21, 2019 the Court summarily denied the motion without portions of the record refuting the claim, and Petitioner sought appeal. (Exhibit H Courts Denial of Motion 3.850(b)).

Petitioner has now completed the maximum lawful sentence that the Court could have imposed as of September 16th 2017 and seeks relief.

III. NATURE OF RELIEF SOUGHT

The nature of the relief sought by this petition is a writ of habeas corpus correcting his illegal sentence in case 1990-CF-2999 to reflect a lawful sentence of all counts concurrent and issue an order directing the Florida Department of Corrections to immediately release Petitioner in case 1990-CF-2999.

IV. ARGUMENT AND LAW IN SUPPORT OF PETITION

The Petitioner is being illegally detained in the Florida Department of Corrections due to consecutive habitual offender sentencing that is not authorized

by Statute in case 1990-CF-2999. The Petitioner is sentenced to consecutive HVFO sentences for a single criminal episode. Under Florida law when one or more sentences from a single criminal episode are enhanced through the habitual offender statute §775.084 Fla. Stat., the total penalty cannot be further increased by consecutive sentencing absent specific legislative authorization. *Cotto v. State*, 139 So.3d 283, 289 (Fla. 2014); reaffirming *Hale v. State*, 630 So.2d 521 (Fla. 1993).

THE RECORD

At the acceptance of plea the Court reviewed and accepted the factual basis in the arrest affidavit and court files, and the factual basis was stipulated to by the parties.(Exhibit B Sentencing transcripts page 6 line 25, page 7 lines 1-5). It is fundamental that "(a) stipulation properly entered into and relating to a matter upon which it is appropriate to stipulate is binding upon the parties and upon the Court."

Gunn Plumbing Inc. v. Dania Bank, 252 So.2d 1, 4 (Fla. 1971).

The factual basis supports that the crimes occurred in a single criminal episode. The court records reflect on July 1st, 1990 at approximately 1:16 am at 2848-A N. Mission Road, Tallahassee in Leon County, the victims stated:

"that defendant and a co-defendant arrived at their home and knocked on the front door requesting entry. Once inside defendant produced a semi-automatic pistol while co-defendant produced a knife. Defendant lead Witness Akerly to his bedroom while Co-defendant held other two in the livingroom. Once in the bedroom Defendant removed \$170.00 from the head of the bed then took a Davis .380 caliber semi-

automatic pistol. two pieces of jewelry were also removed by the Defendant. The Defendant and Co-defendant then took \$170. from one of the other witnesses, Stacey Watral and \$20.00 from the third witness, John Lacey. While in the home the three witnesses/victims where made to lay on the floor of the living room, except for the time witness Akerly was made to go with the defendant to the bedroom. The victims/witnesses also had their hands tied behind their backs while on the floor.

The above statement of facts was told by each witness independent of each other. All three spoke of knowing the co-defendant personally and stated that they only knew the defendant as Thomas. Investigation revealed that the co-defendant and defendant are around each other all of the time and that the defendants description matched that of the description given by the witnesses of Thomas. Upon arrest defendant admitted to being at the victim's home on this occasion. He also admitted that co-defendant and he are friends."

(Exhibit E; Complaint/Arrest Affidavit).

Also, located in the Court file the sworn complaint forms alleged that on July 1st, 1990 in Leon County, Florida that:

"the aforesaid defendant did unlawfully forcibly, by threat, or secretly confine, abduct, imprison, or restrain another person, Leon Akerly, without, lawful authority and against his will, and in the course thereof carried, displayed, used, threatened, or attempted to use a firearm, contrary to Section 775.087 and 787.02(2), Florida Statutes"

"Did unlawfully take \$150.00 in U.S. currency and 2 rings from the person or custody of Stanley Matral, and in the course of the taking used force, violence, assault, or putting in fear, and in the course of committing the robbery carried a firearm, contrary to Section 812.13(2)(a), Florida Statutes"

"the aforesaid defendant did unlawfully forcibly, by threat, or secretly confine, abduct, imprison, or restrain another person, Stanley Matral, without, lawful authority and against his will, and in the course thereof carried, displayed, used, threatened, or attempted to use a firearm, contrary to Section 775.087 and 787.02(2), Florida Statutes"

“Did unlawfully take \$20.00 in U.S. currency and a folding knife from the person or custody of John Lacey, and in the course of the taking used force, violence, assault, or putting in fear, and in the course of committing the robbery carried a firearm, contrary to Section 812.13(2)(a), Florida Statutes”

“the aforesaid defendant did unlawfully forcibly, by threat, or secretly confine, abduct, imprison, or restrain another person, John Lacey, without, lawful authority and against his will, and in the course thereof carried, displayed, used, threatened, or attempted to use a firearm, contrary to Section 775.087 and 787.02(2), Florida Statutes”

(Exhibit F; Complaint Forms sworn by Officer T. Brown).

Finally, located in the Court's file is the victim's deposition (Leon Akerly) that is consistent with the facts alleged in the Arrest Affidavit and Sworn Complaint Forms, which also supports the factual basis that the crimes occurred in a single criminal episode. (Exhibit G, Deposition).

LAW IN SUPPORT OF THE FACTS

A single criminal episode is defined by Florida law as when an offender committing multiple offenses in one location against a single or multiple victims, without a significant break in time and place. *See Robinson v. State*, 25 So.3d 1246 (Fla. 3d DCA 2010); *Jackson v. State*, 650 So.2d 1026, 1027 (Fla. 1st DCA 1995); *Smith v. State*, 650 So.2d 689, 692 (Fla. 3d DCA 1995). The the factual basis shows the offenses in case 1990-cf-2999 occurred on July 1, 1990. There were three witnesses Leon Akerly, Stacey Watral, and John Lacey. The Petitioner

robbed and tied up all victims/witnesses. That Petitioner was with Leon Akerly at all times, showing no temporal break between events. The factual basis for acceptance of the plea agreement is supported by the deposition of Leon Akerly, which supports that all offenses occurred in a single criminal episode.

The Petitioner's consecutive HVFO sentences exceeds that which is authorized by the habitual offender statute and is causing the Petitioner to be illegally detained in the Florida Department of Corrections. When the Court enhanced Petitioner's sentence under the Habitual Offender Statute, the HVFO statute imposed a minimum mandatory term of 10 years on each offense. On counts 4, 5, and 6 False Imprisonment the Court doubled the Statutory Maximum and ordered them to run consecutive. The Supreme Court in *Hale v. State*, 630 So.2d 521, 524-525 (1993), held there is no statutory authority for consecutive sentencing under the HVFO statute in counts that occur in a single criminal episode, where the statute increases statutory maximums and imposes minimum mandatory terms. *See also Cotto v. State*, 139 So.3d at 289. This sentencing error constitutes an illegal sentence and is not consistent with the legislative language or intent.

The Supreme Court in *State v. Callaway*, 658 So. 2d 983,986 (Fla. 1995), determined that the consecutive habitual felony offender sentences for offenses

“arising out of a single criminal episode could not withstand a due process analysis...[and]...the decision in *Hale* significantly impacts a defendant's constitutional liberty interests.”

MANIFEST INJUSTICE

The Petitioner's consecutive sentencing is not authorized by the HVFO statute and is not a sentence that can be imposed under law, therefore the illegal sentence constitutes a manifest injustice where it is causing the continued detention of the Petitioner beyond the legal terms that could have been imposed.

Under the Manifest Injustice Doctrine a Petitioner must: (1) show with a definite and firm conviction that a error has been committed; (2) show the error affects the petitioner's substantial rights; and (3) show that the error affecting the petitioner's substantial rights has a reasonable probability of a different result in the outcome of the case. *Vega v. State*, 288 So. 3d 1252, 1258 (Fla. 5th DCA 2020).

In the present case, the record supports that (1) the offenses occurred in a single criminal episode²; (2) the Court imposed the HVFO sentence on the counts³; and (3) the HVFO counts were ran consecutive, which shows definitely an error was committed. Further, pursuant to the holding in *Hale, Cotto and Callaway*, the

² Exhibits B through G

³ Exhibits B and C

sentencing violates the Petitioner's substantial rights. Finally, there is a reasonable probability that the Petitioner will be released upon correction of the sentencing error, where he has served 32 years in prison, which exceeds the amount of time the Petitioner would have served had the lawful maximum sentence been imposed. Florida Courts have previously determined that a sentence in excess of that authorized by statute alone constitutes a manifest injustice. *Eason v. State*, 932 So.2d 465 (Fla. 1st DCA 2006). Upon a showing that a manifest injustice is evident the Honorable Court has a duty to correct it if it can. *Perez v. State*, 118 So.3d 298, 301 (Fla. 3d DCA 2013).

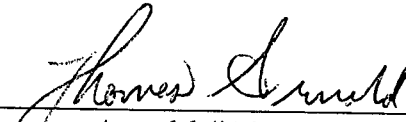
COLLATERAL ESTOPPEL

This claim concerns a review under the manifest injustice clause and may not be barred by collateral estoppel. The Florida courts have determined “to prevent a manifest injustice and a denial of due process, relief may be afforded even to a litigant raising a successive” or untimely claim, *Figuerro v. State*, 305 So. 3d 755 (Fla. 3rd DCA 2020) Citing *State v. McBride*, 848 So. 2d 287, 292 (Fla. 2003) (“[C]ollateral estoppel will not be invoked to bar relief where its application would result in a manifest injustice.”).

WHEREFORE, the Petitioner is being illegally detained in the Florida Department of Corrections due to the illegal sentencing not authorized by Statute, and petitions this Honorable Court to issue a writ of habeas corpus correcting the sentence, and granting any further relief.

OATH

Under penalties of perjury pursuant to Fla. Stat. 92.525, I swear that I have read this Petition for Writ of Habeas Corpus, I understand English, and that the facts stated herein are true and correct.

/s/ 
Thomas Arnold #100520
Graceville Correctional Facility
5168 Ezell Rd.
Graceville, Florida 32440

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this petition was furnished to the Clerk of Court and the Office of the State Attorney, 301 South Monroe St., Tallahassee Fla. 32301 by electronic mail, this ____ day of _____, 2022.

/s/ _____
David Collins
Fla. Bar # 475289
PO Box 541
Monticello, Florida 32344
(850) 997-8111

**IN THE CIRCUIT COURT FOR THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA**

**THOMAS ARNOLD,
Petitioner,**

v.

Case No.: 1990-CF-2999

**STATE OF FLORIDA,
Respondent,**

_____ /

**(ATTACHMENTS)
PETITION FOR WRIT OF HABEAS CORPUS**

- Exhibit A.....Amended Charging Information
- Exhibit B.....Plea and Sentencing Transcripts
- Exhibit C.....Sentencing and Judgment Forms
- Exhibit D.....D.O.C. Records (Inmate Request RE: case 1990-cf-2999)
- Exhibit EComplaint/Arrest Affidavit
- Exhibit F.....Complaint Forms sworn by Officer T. Brown
- Exhibit G.....Deposition of Leon Akerly
- Exhibit HCourts Denial of Motion 3.850(b)

APPENDIX H

**DISMISSED APPEAL AND ISSUED SANCTIONS FOR REPETITIVE FLINGS
FIRST DISTRICT COURT OF APPEAL CASE NO.: 1D16-3009**

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

THOMAS ARNOLD,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

CASE NO. 1D16-3009

Opinion filed August 25, 2016.

Petition for Writ of Habeas Corpus -- Original Jurisdiction.

Thomas Arnold, pro se, Petitioner.

Pamela Jo Bondi, Attorney General, Tallahassee, for Respondent.

PER CURIAM.

The petition for writ of habeas corpus is dismissed. See Baker v. State, 878 So.
2d 1236 (Fla. 2004).

Because this petition for writ of habeas corpus was the seventh unsuccessful proceeding filed in this court to challenge his 1993 judgement and sentence for three counts of strong-armed robbery and three counts of false imprisonment, petitioner was directed to show cause why sanctions should not be imposed against him, including a prohibition against any future appeals or petitions challenging the judgment and sentence, unless petitioner is represented by an attorney in good standing with The Florida Bar. See State v. Spencer, 751 So. 2d 47, 48 (Fla. 1999). Petitioner's response fails to present a legal reason why sanctions should not be imposed.

Because it is apparent that petitioner's continued and repeated attacks on his conviction and sentence have become an abuse of the legal process, we hold that he is barred from future pro se filings in this court concerning Leon County Circuit Court case number 1990-CF-002999. The clerk of this court is directed not to accept any future filings concerning that case unless they are signed by a member in good standing of The Florida Bar.

Petitioner is warned that any filings which violate the terms of this opinion may result in a referral to the appropriate institution for disciplinary procedures as provided in section 944.279, Florida Statutes (2015) (providing that a prisoner who is found by a court to have brought a frivolous suit, action, claim, proceeding, or appeal is subject to

disciplinary procedures pursuant to the rules of the Department of Corrections). See
Fla. R. App. P. 9.410.

BILBREY, KELSEY, and M.K. THOMAS, JJ., CONCUR.

APPENDIX I

TRANSCRIPTS OF PLEA HEARING THE CIRCUIT COURT CASE NO. 1990-CF-2999

91-1040 ~~91-722~~
~~10416~~

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN
AND FOR LEON COUNTY, FLORIDA

STATE OF FLORIDA

v.

CASE NO. 90-2999, **89-5957**
90-3014

THOMAS JOSEPH ARNOLD,

Defendant.

PAUL F. HARTSFIELD
CLERK CIRCUIT COURT
LEON COUNTY, FLORIDA

91 OCT 16 PM 3:32

FILED

HEARING IN RE:

SENTENCING

BEFORE:

HON. F.E. STEINMEYER, III
CIRCUIT JUDGE
STATE OF FLORIDA

DATE:

APRIL 3, 1991

TIME:

(UNKNOWN)

PLACE:

LEON COUNTY COURTHOUSE
TALLAHASSEE, FLORIDA

REPORTED BY:

ARTHUR GREEN (DECEASED)
OFFICIAL COURT REPORTER

TAPE TRANSCRIBED BY:

JADA DOLCATER, RPR, CCR
OFFICIAL COURT REPORTER
LEON COUNTY COURTHOUSE
TALLAHASSEE, FLORIDA

RECORDED
INDEXED
10-17-91

60-2 PM 2:39

FILED

1 APPEARANCES:

2 FOR THE STATE:

3 CHRISTOPHER CANOVA, ESQ.
4 Assistant State Attorney
5 Leon County Courthouse
6 Tallahassee, Florida 32301

7 FOR THE DEFENDANT:

8 THOMAS WOODS, ESQ.
9 1709 Mahan Drive
10 Tallahassee, Florida 32301

11 * * *

25

P R O C E E D I N G S

MR. CANOVA: Thomas Arnold.

THE COURT: I received a letter on Mr. Arnold this morning that I need to give you copies of.

MR. CANOVA: Have you already read that?

A VOICE: Yes.

MR. CANOVA: This is a score sheet we prepared and have shown Mr. Woods.

THE COURT: Are you satisfied with this score sheet, Mr. Woods?

MR. WOODS: Yes, sir.

MR. CANOVA: The priors track the PSI we had in the other case, and I have not included his prior case he has been convicted on. The Court can take judicial notice of that.

MR. WOODS: Is Your Honor ready to proceed?

THE COURT: Yes.

You have read the letter?

MR. WOODS: Yes, sir.

THE COURT: Yes, I'm ready to proceed.

MR. WOODS: Judge, at this time with the agreement of the State's Attorney we would withdraw our previous plea and substitute therein a plea to three counts of strong armed robbery, three counts of false imprisonment, one count of grand theft motor vehicle, with the

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1 understanding that all other pending cases will be
2 nolle prossed and that there will be a civil judgment
3 for restitution in the amount of eight hundred and ten
4 dollars.

5 There is no agreement on sentencing. That will be
6 left up to the Court.

7 The State will be asking for habitualization, and
8 I will be asking for violent habitualization. And in the
9 event--in any event, the sentences will be run
10 concurrent to any other sentences currently under his
11 life sentence plus --

12 THE COURT: Is that part of the agreement?

13 MR. CANOVA: No.

14 MR. WOODS: He hasn't agreed to it. That's what
15 we are requesting.

16 THE COURT: All right, sir.

17 MR. WOODS: And the Defendant will sign the plea
18 sheet in open court.

19 MR. CANOVA: I didn't exactly hear what was said
20 beginning at the reading of that letter.

21 You are pleaing to the lesser included offenses
22 on the armed robberies, the strong armed robberies, and
23 false imprisonment and kidnapping; three charges each.

24 MR. WOODS: And the one count of grand theft.

25 MR. CANOVA: From another case.

25

1 MR. WOODS: That will be the Case No. 90-2999 for
2 the strong-armed robberies and false imprisonment and
3 Case No. 89-5957, grand theft motor vehicle, and all
4 other cases are nolle prossed.

5 THE COURT: . . .enter this plea of no contest.
6 If you don't understand the questioning, stop me and I'll
7 explain. If you want to talk to your lawyer privately,
8 then let me know and I will give you an opportunity.

9 Do you understand that you must answer my
10 questions truthfully and that if you give false
11 answers under oath you can be prosecuted for perjury?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Raise your right hand.

14 (WHEREUPON, THE DEFENDANT WAS DULY SWORN BY THE
15 COURT TO TELL THE TRUTH, THE WHOLE TRUTH, AND
16 NOTHING BUT THE TRUTH)

17 THE COURT: Mr. Arnold, your lawyer has handed me
18 this Plea and Acknowledgment of Rights form which appears to
19 bear your signature on the reverse. Is that your
20 signature?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Have you had an opportunity to read
23 this form?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you understand all the matters

1 that are set forth on the form, particularly with regard
2 to the maximum penalties, the agreed upon disposition,
3 which is a nolle pros. of all of the pending cases,
4 and no agreement as to sentence?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: The rights which you have, the rights
7 which you are giving up, and the other matters as set
8 forth on the form?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: At some point during this proceeding,
11 has your lawyer had an opportunity to explain these
12 rights to you?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you now have any questions
15 concerning anything set forth on this form?

16 THE DEFENDANT: No, sir.

17 THE COURT: Do you understand that by entering
18 this plea of no contest, you are waiving or giving up
19 your right to have a trial by jury in each of these
20 cases, and there will not be a trial in either case?

21 THE DEFENDANT: Yes.

22 THE COURT: I do believe Mr. Arnold understands
23 this proceeding, and the plea is entered freely and
24 voluntarily.

25 I have reviewed the Probable Cause Affidavit in

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1 each of the files and do determine that there is a
2 factual basis to support the charges.

3 Mr. Woods, do you stipulate that there is a
4 factual basis for the charges?

5 MR. WOODS: Yes, sir.

6 THE COURT: Now Mr. Arnold is entitled to a
7 presentence investigation. I think we went through this
8 the other day.

9 MR. CANOVA: Yes, sir, Judge.

10 THE COURT: There is one from a prior case, but
11 not for these cases.

12 MR. WOODS: Right.

13 MR. CANOVA: And that case, I might add, is just
14 a couple of -- that case we have the PSI for is a just
15 a couple of months old.

16 THE COURT: Right.

17 MR. CANOVA: And there's no changed circumstance
18 that I am aware of.

19 MR. WOODS: To the extent that I am permitted by
20 statute to waive it, I'll waive it. I just had that
21 question in my mind whether I could or not.

22 THE COURT: We have the presentence from the
23 prior case which is -- and Mr. Arnold, I believe, has
24 been in custody since that PSI, also.

25 MR. WOODS: Yes, sir, that's correct.

1 THE COURT: All right then, Mr. Woods, anything
2 you wish to say at this time with regard to the
3 sentence?

4 (INAUDIBLE)

5 MR. CANOVA: I've got a motion.

6 THE COURT: You have a Motion for Habitual
7 Violent --

8 MR. CANOVA: Well, we went over that part
9 yesterday, Judge. If you remember, I filed that
10 written notice on October 5th of last year. Mr. Woods
11 apparently didn't get a copy of it. However, at that
12 time the Public Defender was representing Mr. Arnold,
13 and that's why it went to the Public Defender's office.
14 But notice was supplied, and then you continued the
15 case two more days to give Mr. Woods and Mr. Arnold --

16 THE COURT: Mr. Woods, have you had an opportunity
17 to renew the information with regard to the State's
18 motion?

19 MR. WOODS: Yes, sir, I have and I have discussed
20 with Mr. Arnold, Monday I guess it was, the consequences
21 of habitualization and provided him with a copy of the
22 statute and case law involving it.

23 THE COURT: All right, do you believe you have
24 had sufficient time to prepare with regard to any
25 presentation you may wish to make on that motion?

1 MR. WOODS: Yes, sir.

2 MR. CANOVA: Judge, I have two certified copies
3 of the conviction for you out of -- one out of Bay
4 County. That's Case No. 85-324. And one out of
5 Jackson County, that's Case No. 86-562. I'll present
6 those to the Court.

7 There's been a stipulation to the authenticity
8 of the certified copies of Judgment and Sentence, that
9 this is indeed Thomas Joseph Arnold.

10 We are relying on Case No. 85-324 for the
11 violent habitualization in which he was convicted of
12 trafficking in cocaine, grand theft, false report to
13 a law enforcement officer, strong-armed robbery,
14 aggravated assault with a firearm. And of course, the
15 strong-armed robbery and aggravated assault with a
16 firearm are the two that would qualify him for
17 habitualization as a violent habitual offender.

18 In addition, this case was committed -- the pres-
19 ent case he is here for was committed in five years of
20 Case No. 85-324 in which he got a five-year sentence.
21 So it would have been, if not within five years of the
22 day he was convicted, definitely within five years of
23 the time he was released from prison.

24 I will present this to the Court at this time.

25 THE COURT: Have you had an opportunity to look

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1 at these?

2 MR. WOODS: Yes, sir.

3 MR. CANOVA: Also, there's a stipulation as to
4 the fact that Mr. Arnold has not been pardoned on these
5 cases and that (inaudible).

6 MR. WOODS: That's correct, Your Honor.

7 THE COURT: Then is there any matter you wish to
8 present to the Court, Mr. Woods?

9 MR. WOODS: Basically, Your Honor, I don't think
10 that habitualization is necessary in this case by virtue
11 of the fact that the Defendant is presently under
12 sentence of life imprisonment and that habitualization
13 is just, you know, adding additional fuel to a fire that
14 is already burning pretty brightly.

15 The other thing I would ask the Court to
16 consider, none of these victims have suffered any
17 serious injury which is the -- and I concede, you know,
18 that the crimes committed, the opportunity for injury,
19 serious or otherwise, was certainly available. But
20 they have not happened, and I would ask the Court to
21 take that into consideration on behalf of the
22 Defendant.

23 And further, that any sentence imposed by the
24 Court be concurrent with his prior life sentence.

25 That's all I have.

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1 THE COURT: Well, one of the concerns that I have,
2 Mr. Woods, is that I believe that the statute requires
3 me to find that Mr. Arnold -- that it's not necessary
4 for the protection of the public for him to be declared
5 to be an habitual violent offender.

6 And frankly, under the circumstances that I have
7 heard with regard to Mr. Arnold, I think anything that
8 can be done needs to be done to protect the public from
9 Mr. Arnold, and that's the concern that I have.

10 With the understanding in the stipulation that
11 Mr. Arnold qualifies statutorily as an habitual felony
12 offender, I will find that he is an habitual felony
13 offender, and make that finding with regard to each of
14 the cases before the Court at this time.

15 MR. CANOVA: Is that habitual violent felony
16 offender?

17 THE COURT: Habitual violent felony offender,
18 qualifies for that, and I will so find.

19 MR. WOODS: I don't think that would be a -- to
20 acknowledge that, Your Honor. You said each of the
21 cases.

22 THE COURT: Well, I think when he has been found
23 in one case to be, I think it applies to all cases --

24 MR. WOODS: All right, sir.

25 THE COURT: -- that are before the Court.

27x

1 All right, now with regard to the sentence that
2 should be imposed, is there anything further you wish
3 to say, Mr. Woods?

4 MR. WOODS: Only that it be concurrent, Judge.

5 THE COURT: Mr. Arnold?

6 THE DEFENDANT: Please let it be concurrent,
7 Judge.

8 THE COURT: I can't hear you.

9 THE DEFENDANT: I asked you that it please be
10 run concurrent. Maybe twenty years down the line I can
11 get out on that life sentence. You know, I'll be an old
12 man by then. If it's run wild, I'll never get out.

13 THE COURT: If what?

14 THE DEFENDANT: If it is run consecutive I don't
15 think I will ever be able to get out.

16 MR. CANOVA: Judge, I presented you with evidence
17 of Mr. Arnold's prior record, which is quite extensive.
18 He committed all kinds of crimes: drug crimes, property
19 crimes, violent personal crimes, escape, all different
20 kinds of crimes he has committed in the past.

21 In addition, this particular incident occurred
22 on July 1 of 1990; and just about a month before that
23 on June 8th, 1990, of course, he was involved in an
24 incident that was almost exactly similar to this in
25 which he was tried and convicted in late January. I

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1 could almost just say, "Ditto," for the facts in that
2 case as to what happened in this case because in this
3 case it's a case in which he also entered the apartment
4 of some individuals, tied them up, paraded them around
5 the apartment, threatened them, threatened to kill them,
6 took cash and jewelry from them, threatened them if they
7 called the cops that he would kill them, and cut the
8 phone line so that they could not call the police.

9 In addition, when the police finally caught up
10 to him he tried to get away with a high speed chase,
11 and the cops had to try to catch him.

12 Like I say, there are very many similarities
13 between this case and the other case. He is a violent
14 individual. He needs to be locked up for as long as
15 possible in order to protect the community from his
16 violent criminal acts.

17 Additionally, Judge, I think Mr. Woods laid out
18 that there was a civil judgment that was going to be
19 entered, and let me split that up for you for each
20 individual. Mr. Akerly is entitled to two hundred and
21 eighty dollars. Ms. Watral, three hundred fifty.
22 Mr. Lacey, eighty. That would be a civil judgment for
23 that amount.

24 Judge, (coughing). . .three second degree
25 felonies, four third degree felonies. Of course, since

1 he has been found to be an habitual violent felony
2 offender, the maximum penalties for those were doubled.
3 So on second degree felonies he could get up to thirty
4 years.

5 I would remind the Court that the statute for
6 habitual violent felony offender calls that he cannot
7 be eligible for release for ten years. That's in the
8 statute.

9 However, I would ask, Judge, that you structure
10 a sentence of seventy years Department of Corrections
11 and that seventy years in the Department of Corrections
12 run consecutive to the present sentence he has started
13 serving.

14 THE COURT: How do you come up with seventy years?

15 MR. CANOVA: Well, you could give him a lot more
16 than seventy. He has thirty on each one of the second
17 degrees and then ten on each one of the third. I would
18 recommend seventy. There's no magic number, but I would
19 recommend that you give him consecutive sentences to
20 the sentence he is already serving.

21 MR. WOODS: One last word, Judge. It seems to me
22 that people who have committed murder are not getting
23 the same amount or degree of punishment that the State
24 is asking for in this case, and I think concurrent is
25 plenty.

1 He has life and this runs concurrent. If any-
2 thing happens to the life sentence, there's still
3 plenty of time on this to take up, and I think that's
4 enough. Under any scenario it will still be a long,
5 long time before he gets out of prison.

6 THE COURT: Well, Mr. Arnold, I want to tell you
7 that I think you should probably take a great deal of
8 comfort but some substantial embarrassment from the
9 devotion that you have from Mrs. Ganyard.

10 I want to say to Ms. Ganyard that I am disturbed
11 about some of the things that you said in the letter
12 that you wrote me. It may be that I have made up my
13 mind about Mr. Arnold following the trial and following
14 the information that I had received in the trial, but I
15 want to tell you that Mr. Arnold has impressed me as a
16 young man who had probably unlimited potential. He's
17 smart. He certainly has a presence about him that he
18 could have done something with his life.

19 But he has chosen for some reason or other, and I
20 don't know and obviously you don't know, why he has
21 chosen to use his life in the way that he has done. And
22 frankly, he is the kind of person to me that simply does
23 not need to be in society.

24 And, Mr. Arnold, the difficulty that I have, I
25 see so many people come before me that really don't have

1 it, and they get in trouble. But you are one of the
2 people that has come before me that could have made
3 something of his life if he chose to do it. And for
4 you to be involved in the kind of activities that you
5 have been in, in the broad scope of activities that you
6 have been in, in the short period of time that you have
7 been on this earth is just -- You apparently were trying
8 to become John Dillinger. That's the only thing that
9 I can figure. And frankly, my feeling is that you have
10 to be removed from society.

11 Now I will be happy to hear from you if there is
12 anything you want to say, Mr. Arnold.

13 THE DEFENDANT: Excuse me, Your Honor. I don't
14 understand what you mean by extensive history. I have
15 been in trouble twice in my life.

16 THE COURT: Mr. Arnold, trouble twice in your
17 life simply does not describe three counts of armed
18 robbery, two counts of grand theft of an automobile,
19 trafficking in cocaine, another strong armed robbery,
20 an aggravated assault with a firearm, and trafficking --
21 and false report to an officer and an escape. Now that,
22 that --

23 THE DEFENDANT: Excuse me, Your Honor but you know
24 how the police system is. They put on as much as they
25 can, and my prior lawyer told me it was the best that

1 could be got. I went down to prison and found out I
2 could have got probation for all that.

3 THE COURT: Well, Mr. Arnold --

4 THE DEFENDANT: It looks to me like I'm getting
5 the same treatment that I got the first time.

6 THE COURT: Well, that may very well be true, but
7 you had an opportunity to go to the Department of
8 Corrections and you didn't learn a thing by being
9 there.

10 And the problem that I have with you is that you
11 are bright and you know what this is all about. And as
12 a result of that, I'm afraid to let you loose on the
13 public. That's the difficulty that I have.

14 Now having previously declared you to be an
15 habitual violent felony offender, pursuant to your
16 plea of no contest to the three counts of armed robbery
17 in Case No. 90-2999 --

18 MR. WOODS: Excuse me, Your Honor. That's not
19 armed robbery. That's strong armed robbery.

20 THE COURT: Yes, strong armed robbery.

21 MR. WOODS: Second degree.

22 THE COURT: Strong armed robbery, second degree
23 felony, in Case No. 90-2999, I will adjudicate you
24 guilty of each of those counts and on each of those
25 counts I will sentence you to fifteen years in the

1 custody of the Department of Corrections to run
2 consecutive.

3 With regard to the count of false imprisonment,
4 or the lesser included offense of false imprisonment --

5 MR. CANOVA: Three counts there.

6 THE COURT: Are there three counts of that also?

7 All right, three counts of that false imprison-
8 ment, I will adjudicate you guilty of those charges and
9 I will sentence you to serve ten years on each of those
10 counts, and those counts can run concurrently with the
11 sentences imposed in the three counts of strong armed
12 robbery.

13 Now with regard to Case No. 89-5957, the grand
14 theft of a motor vehicle, I will adjudicate you guilty
15 of that charge and sentence you to serve five years in
16 the custody of the Department of Corrections and I will
17 run that consecutively to the sentences imposed in
18 Case No. 90-2999.

19 I will enter a civil judgment against you in the
20 amount of two hundred and eighty dollars in favor of
21 Mr. Akerly, in the amount of three hundred fifty dollars
22 in favor of Ms. Watral, and eighty dollars in favor of
23 Mr. Lacey.

24 And in addition to that, I will impose court costs
25 in the amount of two hundred twenty-five dollars and

1 reduce that to civil judgment against you as well.

2 MR. CANOVA: Judge, on Count 2, the false
3 imprisonment count, are they concurrent or consecutive
4 to each other?

5 THE COURT: They are consecutive to each other
6 but concurrent with the strong-armed robbery charge.

7 Mr. Arnold, I must also advise you that you have
8 the right to appeal the sentence which the Court has
9 imposed upon you. If you choose to do so, you must do
10 so within thirty days of today's date; and if you choose
11 to do so and cannot afford a lawyer to represent you,
12 the Court will appoint one.

13 MR. CANOVA: Judge, one other thing, I think you
14 need to state statutorily that he is not eligible for
15 release for ten years.

16 THE COURT: All right, in the event that that is
17 necessary, I will comply with the statute and state that
18 you are not eligible for release from prison for a ten-
19 year period.

20 MR. WOODS: Your Honor, I am not sure I understood
21 the first sentencing. Is that fifteen years on each
22 count of strong armed robbery to run concurrent to each
23 other or consecutive to each other?

24 THE COURT: No, consecutive.

25 MR. WOODS: For a total of forty-five years?

1 THE COURT: That's correct.

2 MR. WOODS: Okay.

3 (WHEREUPON, THE HEARING ADJOURNED)

4 * * *

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF LEON)

I, JADA DOLCATER, Registered Professional
Reporter; Official Court Reporter, State of Florida at
Large; and Certified Court Reporter, State of Georgia:

DO HEREBY CERTIFY that the foregoing proceedings
were transcribed by me from a tape of proceedings taken by
Arthur Green (deceased), at the time and place therein
designated; that thereafter the proceedings were reduced to
typewriting under my personal supervision, and that the
foregoing pages, numbered 1 through 20, inclusive, are a
true and correct record of the aforesaid proceedings.

I FURTHER CERTIFY that I am not a relative,
employee, attorney or counsel of any of the parties, nor
relative or employee of such attorney or counsel.

WITNESS MY HAND AND SEAL THIS, THE 15th DAY OF
October, A.D., 1991, IN THE CITY OF TALLAHASSEE,
COUNTY OF LEON, STATE OF FLORIDA.

Jada Dolcater
JADA DOLCATER
OFFICIAL COURT REPORTER
STATE OF FLORIDA

APPENDIX J

PLEA AGREEMENT CASE NO.: 1990-CF-2999

3863

STATE OF FLORIDA

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT IN
AND FOR LEON COUNTY, FLORIDA

vs.

Thomas J. Arnold

CASE NUMBER 90-2971
89 5957

4-3-91

PLEA AND ACKNOWLEDGEMENT OF RIGHTS



I hereby enter a plea of (X) no contest, () guilty to the following criminal offenses, withdrawing any previous plea of not guilty.

- Count 1 Offense 3 counts strong armed robbery Max/Min Penalty probation 18 yrs
- Count 2 Offense Grand theft MV Max/Min Penalty probation 5 yrs
- Count Offense Max/Min Penalty
- Count Offense Max/Min Penalty

My plea is entered with the understanding that the state has agreed or does not object to the following disposition of my case:

all other pending cases to be N/P - NO agreement
as to sentence / civil judgment for \$1000 as restitution
280 ARKDLH
350 WATMILL
30 LACH

UT COPY

My plea is entered with the acknowledgment and understanding of the following:

- (1) I understand that the judge will place me under oath to question me about this plea. I must answer the judge's questions truthfully, and if I make a false statement while under oath could be prosecuted for perjury.
- (2) I understand that a plea of not guilty denies my guilt, a plea of guilty admits my guilt, and a plea of no contest means that I will not contest the evidence against me. I also understand that if the Judge accepts this plea of guilty or no contest, there will be no trial and that I will be sentenced based on my plea.
- (3) I understand the nature of the charges to which I am pleading and I am aware of the maximum and minimum penalties. My lawyer has informed me of the facts the State would have to prove before I could be found guilty, and discussed with me any possible defenses that could be raised in my case. I am satisfied with my lawyer's advice and help.

(Sign on Reverse Side After Reading Both Sides Carefully)

(4) I understand that if the Judge accepts this plea, I give up the right to a trial, the right to require the State to prove the charge against me beyond a reasonable doubt, the right to have a jury decide whether I am guilty or not guilty, the right to see and hear the witnesses against me and to have my lawyer question them, the right to subpoena and present witnesses or other evidence or any defenses I may have, and to testify or remain silent as I choose.

(5) I understand that by pleading guilty or no contest I am giving up the right to appeal all matters relating to the final judgment, including the issue of my guilt or innocence. If the judge accepts this plea, the only issues I will be able to appeal are those relating to my sentence and the judge's authority to hear my case. I understand that I have 30 days to appeal the court's judgment and sentence, and if I cannot afford a lawyer, one will be appointed for me.

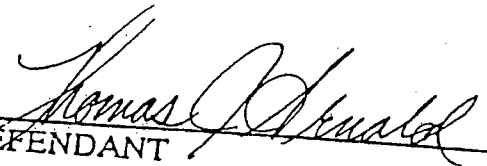
(6) I understand that if I am not a United States citizen, a plea of guilty or no contest could result in my deportation.

(7) I understand that the judge may assess court costs against me under the Florida statute governing my case, and that the judge will impose court costs in the amount of \$200.00 (\$50.00 for misdemeanors) under F.S. §27.3455; in the amount of \$20.00 under F.S. §960.20; and in the amount of \$5.00 under F.S. §943.25.

(8) I have read this entire form carefully, front and back, and I understand all of the rights and duties explained in this form.

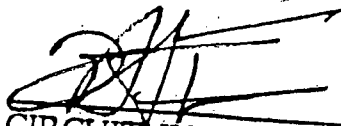
I state to the Court that I am not under the influence of drugs or alcohol, that no one forced or threatened me to enter this plea, and that I am entering this plea freely and voluntarily. I acknowledge that I am entering this plea because I believe it is in my best interest.

SWORN TO AND FILED in open court in the presence of my lawyer and the Judge this
3 day of April 1991


DEFENDANT

I hereby certify that I am counsel for the defendant and that I have informed the defendant of the nature of each charge against him, the maximum penalty, any applicable minimum penalty, the required elements of proof, and any possible defenses. I believe the defendant understands the rights and duties explained in this plea form and that the defendant is entering this plea freely and voluntarily with a full and complete understanding of the consequences.


COUNSEL FOR THE DEFENDANT


CIRCUIT JUDGE

Plea Accepted and Plea Form Filed by:

APPENDIX K

JUDGMENT AND SENTENCE FORMS

☐ PROBATION
(Check Provision)

IN THE DISTRICT COURT, SECOND
JUDICIAL CIRCUIT, IN AND FOR
LEON COUNTY, FLORIDA
DIVISION FELONY
CASE NUMBER 90 CF 2999

STATE OF FLORIDA

THOMAS JOSEPH ARNOLD
Defendant

4-3-91

JUDGMENT

The Defendant THOMAS JOSEPH ARNOLD

Court represented by THOMAS F. WOODS . Being personally before this
his attorney of record, and having

(Check Applicable
Provision)

- ☐ Been tried and found guilty 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	OFFENSE STATUTE NUMBER(S)	DEGREE OF CRIME	CASE NUMBER
1	STRONGARM ROBBERY	812.13 (2)(C)	Fel. 2	90 CF 2999
2	STRONGARM ROBBERY	812.13 (2)(C)	Fel. 2	90 CF 2999
3	STRONGARM ROBBERY	812.13 (2)(C)	Fel. 2	90 CF 2999
4	FALSE IMPRISONMENT	787.02 (2)	Fel. 3	90 CF 2999
5	FALSE IMPRISONMENT	787.02 (2)	Fel. 3	90 CF 2999
6	FALSE IMPRISONMENT	787.02 (2)	Fel. 3	90 CF 2999

and no cause having been shown why the Defendant should not be adjudicated guilty, IT IS ORDERED THAT the Defendant is
hereby ADJUDICATED GUILTY of the above crime(s).

The Defendant is hereby ordered to pay the sum of \$20.00
Trust Fund). The Defendant is further ordered to pay the sum of \$3.00

pursuant to F.S. 960.20 (Crimes Compensation
as a court cost pursuant to F.S. 943.25(4).

(Check if Applicable)

- ☐ The Defendant is ordered to pay an additional sum of two dollars (\$2.00) pursuant to F.S.
943.25(8).
(This provision is optional; not applicable unless checked).
- ☐ The Defendant is further ordered to pay a fine in the sum of \$ _____
pursuant to F.S. 775.083.
(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 pursuant
to F.S. 775.083 are to be recorded on the Sentence page(s)).
- ☐ The Court hereby imposes additional court costs in the sum of \$ _____

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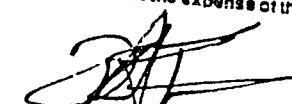
Imposition of Sentence
Stayed and Withheld
(Check if Applicable)

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


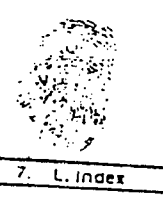
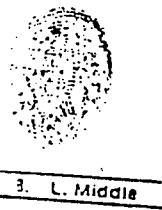

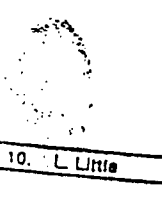
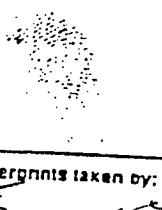


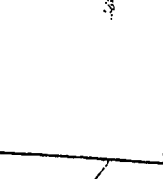

Sentence Deferred
Until Later Date
(Check if Applicable)

☐ The Court hereby defers imposition of sentence until _____
(date)

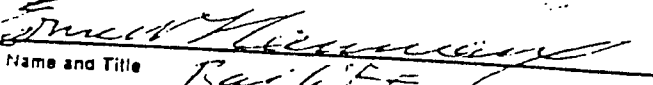
The Defendant in Open Court was advised of his right to appeal from this Judgment by filing notice of appeal with the
Clerk of Court within thirty days following the date sentence is imposed or probation is ordered pursuant to this adjudication. The
Defendant was also advised of his right to the assistance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

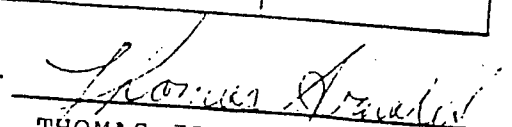

JUDGE

FINGERPRINTS OF DEFENDANT

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

Fingerprints taken by:


Name and Title Bailiff


THOMAS JOSEPH ARNOLD

DONE AND ORDERED in Open Court at LEON County, Florida, this 3RD day
of April, A.D. 19 51. I HEREBY CERTIFY that the above and foregoing fingerprints are the fingerprints of
the Defendant, THOMAS JOSEPH ARNOLD and that they were placed thereon by said Defendant in my
presence in Open Court this date.


JUDGE

000000

Defendant THOMAS JOSEPH ARNOLD

Case Number 90-2999

SENTENCE

(As to Count 1)

The Defendant, being personally before this Court, accompanied by his attorney, TOM WOODS

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 he should not be sentenced as provided by law, and no cause being shown,

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

(Check either provision if applicable)

☐ and the Court having placed the Defendant on probation and having subsequently revoked the Defendant's probation by separate order entered herein.

IT IS THE SENTENCE OF THE LAW that:

☐ The Defendant pay a fine of \$ _____ plus \$ _____ as the 5% surcharge required by F.S. 960.25.

☒ 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 _____ County, Florida
(Name of local corrections authority to be inserted at printing, if other than Sheriff)

To be imprisoned (check one; unmarked sections are inapplicable)

☐ For a term of Natural Life

☒ For a term of 15 YEARS

☐ For an indeterminate period of 6 months to _____ years.

If "split" sentence complete either of these two paragraphs

☐ Followed by a period of _____ on probation under the supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

☐ However, after serving a period of _____ imprisonment in _____ the balance of such sentence shall be suspended and the Defendant shall be placed on probation for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

SPECIAL PROVISIONS

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

Firearm — 3 year mandatory minimum

☐ It is further ordered that the 3 year minimum provisions of F.S. 775.087(2) are hereby imposed for the sentence specified in this count, as the Defendant possessed a firearm.

Drug Trafficking — mandatory minimum

☐ It is further ordered that the _____ year minimum provisions of F.S. 893.135(1)() are hereby imposed for the sentence specified in this count.

Retention of Jurisdiction

☐ The Court pursuant to F.S. 947.16(3) retains jurisdiction over the defendant for review of any Parole Commission release order for the period of _____. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.

~~Habitual Offender~~
**HABITUAL VIOLENT
FELONY OFFENDER**

☒ The Defendant is adjudged a habitual offender and has been sentenced to an extended term in this sentence in accordance with the provisions of F.S. 775.084(4)(a). The requisite findings by the court are set forth in a separate order or stated on the record in open court.

Jail Credit

☐ It is further ordered that the Defendant shall be allowed a total of _____ credit for such time as he has been incarcerated prior to imposition of this sentence. Such credit reflects the following periods of incarceration (optional):

Consecutive/Concurrent

It is further ordered that the sentence imposed for this count shall run ☒ consecutive to ☐ concurrent with (check one) the sentence set forth in count _____ above.

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Defendant THOMAS JOSEPH ARNOLD

Case Number 90 CF 2999

SENTENCE

(As to Count 2)

The Defendant, being personally before this Court, accompanied by his attorney, Thomas F. Woods 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 he should not be sentenced as provided by law, and no cause being shown,

- (Check either provision if applicable)
- ☐ and the Court having on _____ (date) deferred imposition of sentence until this date.
- ☐ and the Court having placed the Defendant on probation and having subsequently revoked the Defendant's probation by separate order entered herein.

IT IS THE SENTENCE OF THE LAW that:

- ☐ The Defendant pay a fine of \$ _____, plus \$ _____ as the 5% surcharge required by F.S. 960.25.
- ☒ 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 _____ County, Florida
(Name of local corrections authority to be inserted at printing, if other than Sheriff)

To be imprisoned (check one; unmarked sections are inapplicable)

- ☐ For a term of Natural Life
- ☒ For a term of 15 YEARS
- ☐ For an indeterminate period of 6 months to _____ years.
- ☐ Followed by a period of _____ on probation under the supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.
- ☐ However, after serving a period of _____ imprisonment in _____ the balance of such sentence shall be suspended and the Defendant shall be placed on probation for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

If "split" sentence
complete either of
these two paragraphs

SPECIAL PROVISIONS

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

- Firearm — 3 year mandatory minimum ☐ It is further ordered that the 3 year minimum provisions of F.S. 775.087(2) are hereby imposed for the sentence specified in this count, as the Defendant possessed a firearm.
- Drug Trafficking — mandatory minimum ☐ It is further ordered that the _____ year minimum provisions of F.S. 893.135(1)() are hereby imposed for the sentence specified in this count.
- Retention of Jurisdiction ☐ The Court pursuant to F.S. 947.16(3) retains jurisdiction over the defendant for review of any Parole Commission release order for the period of _____. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.
- ~~XXXXXXXXXX~~ ☒ The Defendant is adjudged a habitual offender and has been sentenced to an extended term in this sentence in accordance with the provisions of F.S. 775.084(4)(a). The requisite findings by the court are set forth in a separate order or stated on the record in open court.
- Jail Credit ☐ It is further ordered that the Defendant shall be allowed a total of _____ credit for such time as he has been incarcerated prior to imposition of this sentence. Such credit reflects the following periods of incarceration (optional):

Consecutive/Concurrent

It is further ordered that the sentence imposed for this count shall run ☒ consecutive to ☐ concurrent with (check one) the sentence set forth in count ONE (1) above.

Defendant THOMAS JOSEPH ARNOLD

Case Number 90 CF 2999

SENTENCE

(As to Count 3)

The Defendant, being personally before this Court, accompanied by his attorney, Thomas F. Woods
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 he should not be sentenced as provided by law,
and no cause being shown,

- (Check either provision if applicable)
- ☐ and the Court having on _____ (date) deferred imposition of sentence until this date.
- ☐ and the Court having placed the Defendant on probation and having subsequently revoked the Defendant's probation by separate order entered herein.

IT IS THE SENTENCE OF THE LAW that:

- ☐ The Defendant pay a fine of \$ _____ plus \$ _____ as the 5% surcharge required by F.S. 960.25.
- ☒ 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 _____ County, Florida
(Name of local corrections authority to be inserted at printing, if other than Sheriff)

To be imprisoned (check one; unmarked sections are inapplicable)

- ☒ For a term of Natural Life
- ☒ For a term of 15 YEARS
- ☐ For an indeterminate period of 6 months to _____ years.
- ☐ Followed by a period of _____ on probation under the supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.
- ☐ However, after serving a period of _____ imprisonment in _____ the balance of such sentence shall be suspended and the Defendant shall be placed on probation for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

If "split" sentence
completes either of
these two paragraphs

SPECIAL PROVISIONS

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

- Firearm — 3 year mandatory minimum** ☐ It is further ordered that the 3 year minimum provisions of F.S. 775.087(2) are hereby imposed for the sentence specified in this count, as the Defendant possessed a firearm.
- Drug Trafficking — mandatory minimum** ☐ It is further ordered that the _____ year minimum provisions of F.S. 893.135(1)() are hereby imposed for the sentence specified in this count.
- Retention of Jurisdiction** ☐ The Court pursuant to F.S. 947.15(3) retains jurisdiction over the defendant for review of any Parole Commission release order for the period of _____. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.
- ~~XXXXXX~~ **HABITUAL VIOLENT FELONY OFFENDER** ☒ The Defendant is adjudged a habitual offender and has been sentenced to an extended term in this sentence in accordance with the provisions of F.S. 775.084(4)(a). The requisite findings by the court are set forth in a separate order or stated on the record in open court.
- Jail Credit** ☐ It is further ordered that the Defendant shall be allowed a total of _____ credit for such time as he has been incarcerated prior to imposition of this sentence. Such credit reflects the following periods of incarceration (optional):

Consecutive/Concurrent

It is further ordered that the sentence imposed for this count shall run ☒ consecutive to ☐ concurrent with (check one) the sentence set forth in count TWO (2) above.

APPENDIX L

COMPLAINT/POLICE REPORT AND CHARGING INFORMATION

COMPLAINT/ARREST AFFIDAVIT — CIRCUIT/COUNTY COURT, LEON COUNTY, FLORIDA

Felony (X) _____ Misdemeanor () _____	Charge ARMED ROBBERY WITH A FIREARM	Warrant () _____	Traffic () _____	Report No. 90-26716	Def. SPN (3863)	Court Case No. K90 3899AF1
Defendant's Name (Last, First, Middle) ARNOLD, THOMAS JOSEPH	DOB 071464	Skin Far	Sex M	Race W	Hi 505	Wt. 150
Alias	Drivers License No.	State	SOC. Number 474-92-3330			
Local Address (Street, City)	Zip Code	Telephone		Place of Birth Seven Islands, Quebec, CA		
Permanent Address (Street, City, State, Zip Code) 2512 Arthurs Court Lane, Tallahassee, Florida 32301	Scars, Tattoos, Unique Physical Features Tat: Dragon-left breast.			Telephone (904) 878-4935		
Codefendant's Name (Last, First, Middle) Devane, Steven James	DOB 101064	Sex 504	Race W	Employed by: Unemployed		
Codefendant's Name (Last, First, Middle)	DOB	Sex	Race	In Custody Yes () No (XX) Felony (XX) Misd. ()		
	DOB	Sex	Race	In Custody Yes () No () Felony () Misd. ()		

The undersigned certifies and swears that he has just and reasonable grounds to believe, and does believe that the above named defendant on the 1st day of July, 1990, at approximately 1:16 a.m. XX, p.m. () at 2848-A N. Mission Road, Tallahassee in Leon County, did

Victim/Witness stated that defendant and co-defendant arrived at their home and knocked on the front door requesting entry. Once inside defendant produced a semi-automatic pistol while co-defendant produced a knife. Defendant lead Witness Akerly to his bedroom while Co-defendant held other two in the livingroom. Once in the bedroom Defendant removed \$170.00 from the head of the bed and then took a Davis .380 calibre semi-auto matic pistol. Two pieces of jewelry were also removed by the Defendant. The defendant and co-defendant then took \$170. from one of the other witnesses, Stacey Watral and \$20.00 from the third witness, John Lacey. While in the home the three witnesses/victims were made to lay on the floor of the livingroom, except for the time witness Akerly was made to go with the defendant to the bedroom. The victims/witnesses also had their hands tied behind their backs while on the floor.

The above statement of facts was told by each witness independant of each other. All three spoke of knowing the co-defendant personally and stated that they only knew the defendant as Thomas. Investigation revealed that the co-defendant and defendant are around each other all of the time and that the defendants decription matched that of the decription given by the witnesses of thomas. Upon arrest defendant admitted to being at the victim's home on this occasion. He also admitted that co-defendant and he are friends. DATE #0001527821

Victim Data	Contrary to Florida Statute (XX) <u>818.14(2)(a)</u> <u>812.13 2A</u>	
Name: <u>Leon Akerly</u>	County () City () Ordinance ()	Agency F10370300
Address:	Affiant (Signature) <u>Terry G. Brown</u>	SPN (CJIS)
Home Phone:	Printed Name Terry G. Brown	501
Work Phone:	Sworn to and subscribed before me this <u>11th</u> day of <u>July</u> , 19 <u>90</u>	
	Certifying Officer <u>Terry G. Brown</u>	<u>DATE #550/RTF</u>
Jail (Located) <u>90 6622</u>	Arrest Date <u>071190</u>	Time: <u>4:30</u> a.m. () p.m. (XX)
Amount of Bond	Aggravating Factors:	
Booking Officer <u>DJ-534</u>	Bond Out (Mo/Da/Yr) <u>1 1</u>	Time
	(a.m.) By (p.m.)	

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN
AND FOR LEON COUNTY, FLORIDA.

CASE NO. R90-2999AF

8-6-90

STATE OF FLORIDA

vs.

THOMAS JOSEPH ARNOLD,

Defendant(s).

AMENDED INFORMATION FOR:

ARMED ROBBERY (3 Cts. (1st
Degree Life Felony)
ARMED KIDNAPPING (3Cts.) (1st
Degree Life Felony)
CARRYING A CONCEALED FIREARM
(3rd Degree Felony)
CARRYING A CONCEALED WEAPON
BY CONVICTED FELON (2nd
Degree Felony)
POSSESSION OF FIREARM BY CON-
VICTED FELON (2nd Degree
Felony)

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

WILLIAM N. MEGGS, State Attorney for the Second Judicial Circuit of the State of Florida, charges that in Leon County, Florida, the above named defendant(s), on the 1st day of July, 1990, did unlawfully take UNITED STATES CURRENCY, PISTOL FIREARM, JEWELRY from the person or custody of LEON AKERLY, and in the course of the taking used force, violence, assault, or putting in fear, and in the course of committing the robbery carried a firearm, contrary to Section 812.13(2)(a), Florida Statutes.

COUNT II: And William N. Meggs, as State Attorney aforesaid, further information makes that THOMAS JOSEPH ARNOLD on the 1st day of July, 1990, in the County of Leon and the State of Florida, did unlawfully take UNITED STATES CURRENCY, KNIFE from the person or custody of JOHN LACEY, and in the course of the taking used force, violence, assault, or putting in fear, and in the course of committing the robbery carried a firearm, contrary to Section 812.13(2)(a), Florida Statutes.

COUNT III: And William N. Meggs, as State Attorney aforesaid, further information makes that THOMAS JOSEPH ARNOLD on the 1st day of July, 1990, in the County of Leon and the State of Florida, did unlawfully take UNITED STATES CURRENCY, RING from the person or custody of STACEY WATRAL, and in the course of the taking used force, violence, assault, or putting in fear, and in the course of committing the robbery carried a firearm, contrary to Section 812.13(2)(a), Florida Statutes.

COUNT IV: And William N. Meggs, as State Attorney aforesaid, further information makes that THOMAS JOSEPH ARNOLD on the 1st day of July, 1990, in the County of Leon and the State of

Florida, did forcibly, secretly, or by threat confine, abduct, or imprison another person, LEON AKERLY, against his or her will and without lawful authority with the intent to commit or to facilitate the commission of the felony of ROBBERY, and in the course thereof carried, displayed, used, or possessed a firearm, contrary to Sections 775.087 and 787.01(2), Florida Statutes.

COUNT VI: And William N. Meggs, as State Attorney aforesaid, further information makes that THOMAS JOSEPH ARNOLD on the 1st day of July, 1990, in the County of Leon and the State of Florida, did forcibly, secretly, or by threat confine, abduct, or imprison another person, JOHN LACEY, against his or her will and without lawful authority with the intent to commit or to facilitate the commission of the felony of ROBBERY, and in the course thereof carried, displayed, used, or possessed a firearm, contrary to Sections 775.087 and 787.01(2), Florida Statutes.

COUNT VI: And William N. Meggs, as State Attorney aforesaid, further information makes that THOMAS JOSEPH ARNOLD on the 1st day of July, 1990, in the County of Leon and the State of Florida, did forcibly, secretly, or by threat confine, abduct, or imprison another person, STACEY WATRAL, against his or her will and without lawful authority with the intent to commit or to facilitate the commission of the felony of ROBBERY, and in the course thereof carried, displayed, used, or possessed a firearm, contrary to Sections 775.087 and 787.01(2), Florida Statutes.

COUNT VII: And William N. Meggs, as State Attorney aforesaid, further information makes that THOMAS JOSEPH ARNOLD on the 11th day of July, 1990, in the County of Leon and the State of Florida, did unlawfully carry on or about his or her person a concealed firearm, contrary to Section 790.01(2), Florida Statutes.

COUNT VII: And William N. Meggs, as State Attorney aforesaid, further information makes that THOMAS JOSEPH ARNOLD on the 11th day of July, 1990, in the County of Leon and the State of Florida, did unlawfully carry on or about his or her person a concealed weapon, a KNIFE, having been previously convicted of a felony, contrary to Section 790.23, Florida Statutes.

COUNT IX: And William N. Meggs, as State Attorney aforesaid, further information makes that THOMAS JOSEPH ARNOLD on the 1st day of July, 1990, in the County of Leon and the State of Florida, did unlawfully own or have in his or her care, custody, possession or control a firearm, having been previously convicted of a felony, contrary to Section 790.23, Florida Statutes.

STATE OF FLORIDA
COUNTY OF LEON

Personally appeared before me WILLIAM N. MEGGS, State Attorney for the Second Judicial circuit of the State of Florida, in and for Leon County, or his designated Assistant State Attorney who being first duly sworn, says that the allegations 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(s) therein charged, and that this prosecution is instituted in good faith and hereby certifies that testimony under oath has been received from the material witness(es) for the offense(s).

WILLIAM N. MEGGS, STATE
ATTORNEY SECOND JUDICIAL
CIRCUIT OF FLORIDA IN AND
FOR LEON COUNTY.

CW Godwin
STATE ATTORNEY or
Designated Assistant State
Attorney

Sworn to and subscribed before me this
3rd day of July 1990.
August

Dunkley Smith

Notary Public, State of Florida
My Commission Expires Feb. 13, 1992
Bonded thru Gray-Turn Insurance Inc.

SPN 00003863

ARN. 8/13/90

ASA: CHRIS CANOVA