

DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

CHRISTOPHER KENNARD BURTON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

No. 2D2024-0622

September 5, 2025

Appeal from the Circuit Court for Hillsborough County; Robin F. Fuson,
Judge.

Blair Allen, Public Defender, and Pamela H. Izakowitz, Assistant Public
Defender, Bartow, for Appellant.

James Uthmeier, Attorney General, Tallahassee, and Natalia Reyna-
Pimiento, Assistant Attorney General, Tampa, for Appellee.

LABRIT, Judge.

ORDER ON MOTION FOR WRITTEN OPINION

Following the issuance of a per curiam affirmance in this case, the
appellant, Mr. Christopher Burton, timely filed a pro se motion for a
written opinion. We grant the motion and take this opportunity to
explain the procedural conundrum that led us here.

Although Mr. Burton had been represented by the Public
Defender's Office through the issuance of this court's per curiam opinion,

“ APPENDIX A ”

he attached to his pro se filing a letter from the Public Defender's Office indicating that it would take no further action on his behalf.

Mr. Burton's motion triggered a threshold inquiry regarding whether the motion was procedurally authorized. Under Florida Rule of General Practice and Judicial Administration 2.505(f), counsel's representation continues until either (1) the court grants a motion to withdraw, (2) substitute counsel appears, or (3) the case is fully concluded and the time to appeal has expired. Under Florida Rule of Appellate Procedure 9.440(d)(3), appellate counsel remains counsel of record unless formally permitted by the court to withdraw.

This framework can create a procedural dilemma in cases like this one, where a defendant is effectively left without active representation after an appellate decision issues but before the time to seek review before the Florida Supreme Court or file a postdecision motion has lapsed. Here, the Public Defender's letter unambiguously disclaimed further representation, but no motion to withdraw was filed and the time to seek further appellate review had yet to expire. As a result, Mr. Burton was still represented even though he no longer had the benefit of active representation by counsel.

Under existing precedent, pro se filings submitted by represented appellants must be stricken as unauthorized. *See, e.g., Johnson v. State*, 974 So. 2d 363, 364-65 (Fla. 2008); *Benjamin v. State*, 32 So. 3d 131, 132 (Fla. 2d DCA 2009). But the rationale for those decisions begins to fray when, as here, the appellant is not actually receiving representation but is nonetheless affirmatively precluded from filing on his own behalf. This problem is exacerbated by the short deadlines imposed by the Florida Rules of Appellate Procedure for filing postdecision motions or seeking review in the Florida Supreme Court—deadlines that are not

tolled by the filing of a motion to withdraw. In practice, incarcerated appellants often have limited ability to secure substitute counsel or prompt action from appointed counsel within those timeframes.

In light of this conundrum, we directed the Public Defender to either adopt Mr. Burton's motion for a written opinion or to file a motion to withdraw. The Public Defender adopted Mr. Burton's motion, which we have now granted. While that solves the problem for Mr. Burton, this case underscores the need to consider whether an exception or procedural accommodation may be appropriate in such scenarios to avoid unfairly constraining a defendant's access to postdecision review. In the meantime, we remind all attorneys—particularly institutional actors like the Public Defender—to remain mindful of the formal requirements governing withdrawal.

OPINION

Mr. Burton appeals from the postconviction court's decision not to modify his sentence under section 921.1402, Florida Statutes (2023), following his 1995 convictions for first-degree murder and armed robbery. After serving twenty-eight years in prison, Mr. Burton filed an application for sentence review and presented expert testimony from a psychologist, Dr. Hartig, who opined that Mr. Burton had matured and was rehabilitated. The State did not present a counter-expert but, through cross-examination, highlighted significant gaps in Dr. Hartig's evaluation. Following the hearing, the postconviction court entered a written order rejecting her testimony, concluding that Mr. Burton had not met his burden of demonstrating rehabilitation or fitness to reenter society, and declined to modify his sentence. Mr. Burton then sought our review.

Although we initially affirmed per curiam, we now write pursuant to Florida Rule of Appellate Procedure 9.330(a)(2)(D)(ii), which authorizes a written opinion to explain an apparent deviation from prior precedent. Mr. Burton argues that our PCA conflicted with *Murphy v. State*, 368 So. 3d 1025 (Fla. 2d DCA 2023), in which this court reversed a denial of sentence modification where the unrebutted expert testimony established rehabilitation and fitness to reenter society. We acknowledge that *Murphy* focused primarily on the State's failure to present any rebuttal evidence and included only a brief reference to the State's failure to "otherwise seek to contradict the expert's conclusions." *Id.* at 1028. But that language—drawn from *Tindall v. State*, 310 So. 3d 95, 101 (Fla. 4th DCA 2021), which *Murphy* cited—recognizes that expert testimony may be undermined in other ways, including through effective cross-examination or the absence of foundational support. That is what distinguishes this case.

Here, although the State presented no counter-expert, it exposed significant weaknesses in Dr. Hartig's opinion during cross-examination, and the postconviction court identified multiple, well-reasoned bases for discounting her conclusions. Unlike in *Murphy*, where the record reflected a complete failure to challenge the expert's assessment, the record here supports the postconviction court's exercise of discretion. Accordingly, we write to clarify why our decision does not depart from *Murphy*.

Whether to accept expert testimony lies within the sound discretion of the trial court. *See Tindall*, 310 So. 3d at 101 (quoting *Franqui v. State*, 59 So. 3d 82, 92 (Fla. 2011)). A court may reject the unrebutted testimony of a mental health expert if it "finds that the facts do not support the testimony." *Id.* (quoting *Durousseau v. State*, 55 So. 3d 543,

560 (Fla. 2010)). A trial court may also reject expert witness testimony "when it . . . concerns technical evidence and 'is so palpably incredible, illogical, and unreasonable as to be unworthy of belief or otherwise open to doubt.' " *Id.* (quoting *Freeman v. State*, 325 So. 3d 120, 121 (Fla. 5th DCA 2020)). Here, the postconviction court articulated four reasonable grounds for rejecting Dr. Hartig's opinion.

First, the postconviction court found that Dr. Hartig's conclusions were based primarily on Mr. Burton's self-reporting and lacked adequate corroboration. Dr. Hartig did not review police reports, trial transcripts, or prior expert evaluations. She was also unaware that Mr. Burton had been convicted in a separate, contemporaneous case involving attempted murder and robbery with a firearm. This failure to account for key case history and reliance on unverified self-narrative rendered her testimony open to doubt. *See Freeman*, 325 So. 3d at 121; *cf. Nelson v. State*, 850 So. 2d 514, 530 (Fla. 2003).

Second, the postconviction court emphasized Mr. Burton's continued receipt of disciplinary referrals and corrective consultations in prison as undermining Dr. Hartig's opinion that he was fully rehabilitated. *Cf. Peters v. State*, 128 So. 3d 832, 846 (Fla. 4th DCA 2013). The referrals and consultations involved disobeying orders and other signs of rule breaking, even in a highly structured, rule-based environment. The postconviction court reasonably concluded that Mr. Burton's inability to comply with rules—despite knowing that his behavior was being closely scrutinized—undercut Dr. Hartig's conclusion that he was fully rehabilitated.

Third, the postconviction court viewed Dr. Hartig's dismissal of the significance of those referrals and consultations as itself a basis to doubt her judgment. The postconviction court reasonably viewed Mr. Burton's

pattern of continued disciplinary problems as indicating ongoing issues with his ability to follow rules. *Cf. J.M.H. v. State*, 311 So. 3d 903, 916 (Fla. 2d DCA 2020). Finally, the postconviction court found that Mr. Burton's continued assertion that he acted in self-defense—contrary to the trial evidence and jury verdict—was inconsistent with genuine remorse, and that his apologies appeared "rehearsed and contrived." This credibility determination was within the postconviction court's discretion. *Cf. Stephens v. State*, 748 So. 2d 1028, 1034 (Fla. 1999).

In sum, the postconviction court was not required to accept expert testimony that it reasonably found lacked credibility and foundation. Because the record reflects a reasoned and fact-supported exercise of discretion, *see Canakaris v. Canakaris*, 382 So. 2d 1197, 1203 (Fla. 1980), we conclude that the postconviction court did not abuse its discretion in rejecting Dr. Hartig's testimony and declining to modify Mr. Burton's sentence.

Affirmed.

SILBERMAN and ROTHSTEIN-YOUAKIM, JJ., Concur.

Opinion subject to revision prior to official publication.

IN THE THIRTEENTH JUDICIAL CIRCUIT COURT
FOR HILLSBOROUGH COUNTY, FLORIDA
Criminal Justice and Trial Division

STATE OF FLORIDA

CASE NO: 94-CF-010478

v.

CHRISTOPHER BURTON,
Defendant.

DIVISION: G

ORDER DENYING SENTENCE MODIFICATION

THIS MATTER is before the Court on Defendant's *pro se* "Application for Sentence Review Hearing," filed on February 3, 2023, pursuant to Section 921.1402, Florida Statutes. (*See* Defendant's Application for Sentence Review, attached.) On February 12, 2024, the Court held an evidentiary hearing in this matter. After reviewing Defendant's motion, the court file, the record, the evidence and testimony presented at the hearing, and the arguments of the parties, the Court finds as follows:

PROCEDURAL HISTORY

On January 5, 1995, Defendant was found guilty of first-degree murder and robbery with a firearm. (*See* Verdict Form, attached.) Defendant was originally sentenced to life in prison without the possibility of parole on count one and to fifteen years' prison on count two, with both counts ordered to run concurrently. (*See* Judgments and Sentences, attached.) Defendant appealed, and the Second District Court of Appeal affirmed. *See Burton v. State*, 685 So. 2d 601 (Fla. 2d DCA 1996).

On February 16, 2018, Defendant was resentenced on count one to life imprisonment with judicial review after twenty-five years, in accordance with Florida Statute 921.1402(2)(a). (*See*

"APPENDIX B"

Amended Judgment and Sentence,¹ attached.) Defendant's sentence on count two remained as originally imposed.

On February 3, 2023, Defendant filed his "Application for Sentence Review Hearing," asking the Court to grant him a sentence review hearing. On February 21, 2023, the Court found that Defendant was eligible for a sentence review hearing, and ordered that a sentence review hearing be held. (See Order Granting Sentence Review Hearing, attached.) The Court held the sentence review hearing on February 12, 2024.

EVIDENTIARY HEARING

At the sentence review hearing, the Court heard testimony from the victim's next of kin, Rosana Harris; Defendant's father, Morris Burton; a psychologist, Dr. Tracy Hartig; and Defendant. (See Transcript of Feb. 12, 2024, Sentence Review Hearing, attached.) The Court summarizes the pertinent testimony below.

Ms. Harris testified that she was the sister of the victim in this case and spoke for herself and the rest of the family. She stated that they did not want Defendant released. She stated that she forgave him, but that he deserved the life sentence he received.

Mr. Burton testified on behalf of the Defendant. He is Defendant's father and was 18 when Defendant was born. He joined the military soon after, so Defendant lived with his mother and grandmother in Tampa at first. Mr. Burton took full custody of Defendant when he was six or seven, and they lived together while Mr. Burton was stationed in Oklahoma, Washington, Texas, and Germany. Defendant returned to Tampa from Germany with his stepmother when Mr. Burton was deployed to the Persian Gulf. She later sent Defendant to live with his step-grandfather in New

¹ The Court notes that the "effective date" and "DONE AND ORDERED" date of the amended judgment and sentence reflect February 16, 2018; however, in order to give effect to Florida Statutes 921.1402 and 775.082, the amended judgment and sentence must be considered *nunc pro tunc* to January 23, 1995.

York, where Defendant was hit by a car. Defendant then returned to Tampa. Mr. Burton communicates frequently with Defendant, and indicated his willingness to be a resource for him upon release. On cross-examination, Mr. Burton acknowledged that Defendant had behavioral issues while in Germany, which included shooting a bus driver with paperclips and getting into some kind of "physical violence" with a girl his age. He could not say whether the military had requested that Defendant be sent back to the United States.

Dr. Tracy Hartig testified for the Defendant. She is a licensed psychologist with specialized training in juvenile psychology. She reviewed some documents from the case, including the Defendant's resentencing memorandum from 2017, Department of Corrections (DOC) records, and various certificates Defendant had received in prison. She conducted a 2.5-hour interview with Defendant, administered the Inventory of Offender Risk, Needs and Strengths (IORS), a recidivism measure, and spoke to his father and cousin. She acknowledged that she did not review any police reports or transcripts relating to the original crime, did not review any records pertaining to the other offenses Defendant was convicted of around the same time, and did not review any prior evaluations done in the case.

In her interview, Defendant disclosed that he had moved around a lot as a kid, had behavioral issues which led to his getting into trouble and suspended, and carried a knife to school. He stopped his education altogether and was moved into residential treatment programs where, he admitted, he would assault staff members. He was diagnosed with conduct disorder and oppositional defiant disorder and was placed on significant psychotropic medications as a juvenile. Dr. Hartig added that Defendant was no longer receiving mental health treatment and that she did not believe he had those conditions presently. She noted that Defendant continued to present with

behavioral issues after his admission to DOC. Her report summarized his disciplinary referrals (DRs) as follows:

- 1995: disorderly conduct
- Undated: unarmed assault
- Undated: fight and theft
- Undated: fight
- 2001: contraband
- 2005: spoken threats
- 2008: possession of a weapon
- 2009: exposing himself to a deputy
- 2011: unauthorized area

She testified that his DRs declined over time, and his last one was in 2011. She also testified that the number of corrective consultations (CCs) he received declined over time from 8-10 a year at the beginning of his incarceration to one a year or less in recent years. The State's exhibit established that his CCs were as follows:

- 10/20/11: disobeying rules and regs
- 09/25/12: unauthorized area
- 11/24/13: unauthorized absence
- 12/02/13: disobeying verbal or written order
- 07/30/15: unauthorized absence
- 02/09/16: disobeying rules
- 04/24/19: disobeying rules
- 04/27/20: disobeying verbal or written order (refused to sign)
- 01/31/22: refusing to work (refused to sign)

She testified that the declined in CCs he received showed a reduction in behavioral issues over time.

Dr. Hartig also administered the IORNS with Defendant. The IORNS is a true/false questionnaire based on static factors, such as a criminal history, dynamic factors, and protective

factors. She testified that his static factors were elevated, that he scored low on dynamic needs, and that he scored high on personal and environmental factors. Her interpretation of the results of the IORNS was that Defendant was at a low risk to reoffend.

Dr. Hartig testified that, in her opinion, regarding subsection (a), Defendant demonstrated maturity and rehabilitation. She based her opinion on the low number of DRs and the fact that they decreased over time, and the low number of CCs and the fact that they also decreased over time. She also testified, regarding subsection (c), that Defendant is not at the same level of risk that he was at the time he was a teenager. Regarding subsection (e), she indicated that Defendant expressed remorse "that the things that . . . day happened as they did" and wished "he could have made other choices." Regarding subsection (f), she testified that at the time of the offense Defendant was impulsive, had significant behavioral issues, an unstable home life, and that his brain was still developing. Regarding subsection (g), she testified, and Defendant's exhibits demonstrated, that Defendant obtained his high school diploma while incarcerated. He also completed a number of self-improvement courses, OSHA courses, and CDL courses. Regarding subsection (h), she indicated that Defendant was not a victim of abuse prior to committing the offense. Regarding subsection (i), Dr. Hartig's assessment was that Defendant has been rehabilitated and is fit to reenter society.

On cross-examination, Dr. Hartig acknowledged being unaware of the other charges Defendant faced in a separate case relating to an armed robbery and attempted murder. She acknowledged that her information was primarily based on Defendant's own self-reporting and that he had an incentive to present himself in the best light possible. She acknowledged that she had not reviewed prior evaluations of Defendant, but was aware that the doctors writing those evaluations stated he had antisocial personality disorder. She also acknowledged that Defendant

had received CCs since his 2018 resentencing for generally failing to follow rules and order and that there has been a "consistent pattern . . . in that time frame of failing to comply with orders and regulations that are given to him."

She acknowledged that he had DRs showing a bad attitude rather than the positive attitude he presented to her during their brief interview. Dr. Hartig also acknowledged that while in Germany Defendant "got in trouble for shooting paperclips at a bus driver, and that he touched a girl on her butt," that while at juvenile treatment facilities he assaulted staff members, and while in New York he took weapons, specifically knives, to school. She also testified that Defendant self-reported that he fired his gun in response to hearing shots fired during the murder, and that she did not review any police reports that would have shown that he fired first.

During the Court's examination, Dr. Hartig acknowledged that *Miller v. Alabama* gave juvenile defendants an incentive to follow the rules to the letter, but that Defendant, even knowing how important it was to toe the line in order to show he deserved a sentence modification, had not been able to completely conform in following the rules. Regarding family support, she explained that he is more likely to be successful living with his father, but less likely to be successful if he was unable to live with him.

At the hearing, Defendant apologized for his actions and expressed that he was "deeply sorry for the pain" he caused. He admitted that he violated prison rules, but that those violations do not reflect how he would act after release. He stated he took CDL classes and worked several jobs at the prison. He indicated he had been relocated to Avon Park Correctional Institution for good behavior and was able to take more classes.

ANALYSIS

At a sentence review hearing, the court must determine whether “the juvenile offender has been rehabilitated and is reasonably believed to be fit to reenter society.” § 921.1402(7), Fla. Stat. If the juvenile offender demonstrates, by a preponderance of the evidence, both rehabilitation and that he is fit to reenter society, the statute requires the trial court to “modify the sentence and impose a term of probation of at least 5 years.” § 921.1402(7), Fla. Stat.; *Murphy v. State*, 368 So. 3d 1025, 1028 (Fla. 2d DCA 2023). In making that decision, the Court must consider “any factor it deems appropriate,” including all the following:

(a) Whether the juvenile offender demonstrates maturity and rehabilitation.

(b) Whether the juvenile offender remains at the same level of risk to society as he or she did at the time of the initial sentencing.

(c) The opinion of the victim or the victim's next of kin. The absence of the victim or the victim's next of kin from the sentence review hearing may not be a factor in the determination of the court under this section. The court shall permit the victim or victim's next of kin to be heard, in person, in writing, or by electronic means. If the victim or the victim's next of kin chooses not to participate in the hearing, the court may consider previous statements made by the victim or the victim's next of kin during the trial, initial sentencing phase, or subsequent sentencing review hearings.

(d) Whether the juvenile offender was a relatively minor participant in the criminal offense or acted under extreme duress or the domination of another person.

(e) Whether the juvenile offender has shown sincere and sustained remorse for the criminal offense.

(f) Whether the juvenile offender's age, maturity, and psychological development at the time of the offense affected his or her behavior.

(g) Whether the juvenile offender has successfully obtained a high school equivalency diploma or completed another

educational, technical, work, vocational, or self-rehabilitation program, if such a program is available.

(h) Whether the juvenile offender was a victim of sexual, physical, or emotional abuse before he or she committed the offense.

(i) The results of any mental health assessment, risk assessment, or evaluation of the juvenile offender as to rehabilitation.

§ 921.1402(6), Fla Stat. If the Court denies modification, it must enter a written order explaining its reasons for denying modification. § 921.1402(7), Fla. Stat. Based on the Court's review of the testimony and evidence presented at the hearing, the Court finds that Defendant has not demonstrated by a preponderance of the evidence both rehabilitation and that he is fit to reenter society. The Court addresses each factor below.

(a) Whether the juvenile offender demonstrates maturity and rehabilitation

Defendant's expert, Dr. Hartig, opined that Defendant demonstrated maturity and rehabilitation, based on the low number of DRs and the fact that they decreased over time, and the low number of CCs and the fact that they also decreased over time. She indicated that those things showed that he was making more responsible choices and managing his behavior better. He also participated in educational opportunities in prison, avoided gang activity, and showed realistic goal-setting and insight into his own actions and behaviors.

The State did not present an expert to rebut Dr. Hartig's, nor did the State challenge her qualifications. However, the State impeached her based on the lack of information upon which she based her opinion, the inconsistency between Defendant's self-reports and actual events, and her own minimization of Defendant's disciplinary record.

The Court finds that Dr. Hartig's opinion in this regard is not credible, and the Court does not accept it. Although a "trial court cannot arbitrarily reject unrebutted expert testimony," it may do so if it offers "a reasonable explanation for doing so, such as impeachment of the witness or conflict with other evidence," or, on technical matters, if it "is so palpably incredible, illogical, and unreasonable as to be unworthy of belief or otherwise open to doubt[,] or when it concerns non-expert matters and is disputed by lay testimony. *Freeman v. State*, 325 So. 3d 120, 121 (Fla. 5th DCA 2020) (internal quotation marks omitted). The Court finds that Dr. Hartig's testimony was impeached by the State when she admitted to not reviewing any police reports, transcripts, and relying solely on Defendant's self-serving statements. The Court finds that her opinion is "otherwise open to doubt" for the same reasons. Therefore, the Court disregards her opinion as it relates to this factor.

Defendant's history of DRs and CCs continued into 2022, well after he had been resentenced and was aware that he would be eligible for a sentence review. He also refused to sign several CCs, showing a continued lack of respect for the rules and authority of the justice system. His continued rule-breaking shows a lack of maturity and rehabilitation.

(b) Whether the juvenile offender remains at the same level of risk to society as he or she did at the time of the initial sentencing

Regarding this factor, Dr. Hartig opined that Defendant is not at the same level of risk that he was at the time he was a teenager. She testified that she based her opinion on his DR/CC records, which showed that "he has not continued to demonstrate the same risk, and the violent behavior" as when he was younger, his maturation over time based on his reports and those of family members, and his results on the IORNS.

For the same reasons described under subsection (a), the Court rejects Dr. Hartig's opinion that Defendant is at a low risk to reoffend. Her opinion is based primarily on Defendant's self-serving statements, without consideration of sufficient outside information to verify whether he was minimizing or even outright lying. Her opinion is therefore "open to doubt" on that basis, and the Court disregards it. Defendant's recent history of violations in DOC also show that he is not at a low risk of reoffending because he continues to violate the rules of the institutions in which he is housed.

(c) The opinion of the victim or the victim's next of kin

The victim's sisters want Defendant to continue his sentence of life in prison.

(d) Whether the juvenile offender was a relatively minor participant in the criminal offense or acted under extreme duress or the domination of another person

The evidence does not show that Defendant was a minor participant or acted under duress. He was the sole perpetrator in this offense and did not claim in his interview with Dr. Hartig that he acted while under duress.

(e) Whether the juvenile offender has shown sincere and sustained remorse for the criminal offense.

Dr. Hartig testified that Defendant expressed remorse "that the things that . . . day happened as they did" and wished "he could have made other choices." At the hearing, Defendant apologized for his actions and expressed that he was "deeply sorry for the pain" he caused.

The Court finds Defendant's expression of remorse at the hearing to be rehearsed and contrived. His expression of remorse to Dr. Hartig also does not reflect that he has taken responsibility and expressed sincere remorse for intentionally shooting the victim; rather, it

appears that he is only sorry that "things happened as they did." He also continues to maintain that he acted in self-defense when the jury found that he did not. Given those statements, Defendant's expressions of remorse appear markedly insincere.

(f) Whether the juvenile offender's age, maturity, and psychological development at the time of the offense affected his or her behavior.

In Dr. Hartig's opinion, Defendant's age, maturity, and psychological development at the time of the offense affected his behavior. She testified that at the time of the offense, Defendant was an impulsive teenager whose home life was not stable. He was having a lot of behavioral issues, his brain was still in progress of development, and he was associating with peers that were a negative influence. Mr. Burton, Defendant's father, testified similarly. However, Dr. Hartig based her opinion primarily on Defendant's self-serving statements and a brief interview with his father. Given the extent of the information that she admitted she did not review, the Court finds that her opinion in this regard is also open to doubt, and the Court rejects it.

(g) Whether the juvenile offender has successfully obtained a high school equivalency diploma or completed another educational, technical, work, vocational, or self-rehabilitation program, if such a program is available.

Dr. Hartig testified, and Defendant's exhibits demonstrated, that Defendant obtained his high school diploma while incarcerated. He also completed a number of self-improvement courses, OSHA courses, and CDL courses. However, most of his certificates came after his 2018 resentencing, and the Court finds his achievements to be generally unremarkable.

- (h) **Whether the juvenile offender was a victim of sexual, physical, or emotional abuse before he or she committed the offense.**

Dr. Hartig indicated that Defendant was not a victim of abuse prior to committing the offense.

- (i) **The results of any mental health assessment, risk assessment, or evaluation of the juvenile offender as to rehabilitation.**

Dr. Hartig's assessment is that Defendant has been rehabilitated and is fit to reenter society. Given the issues the Court has identified above regarding Dr. Hartig's assessment of Defendant, her opinion in this regard is open to doubt, and the Court rejects it. The State did not present any contrary expert opinion.

* * * * *

In summary, the Court finds that Defendant has not demonstrated by a preponderance of the evidence that he is rehabilitated or that he is fit to reenter society. Defendant's expert, upon whose opinion he rested his case, rendered her opinion without sufficient information, which leaves it open to doubt. As explained above, the Court rejects her opinion testimony for that reason. Defendant's history of DRs and CCs shows that he continues to have a disrespect for rules and order. He has not been rehabilitated and is not fit to reenter society. Accordingly, the Court will not modify his sentence.

It is therefore **ORDERED AND ADJUDGED** that Defendant's "Application for Sentence Review Hearing" is hereby **DENIED** in accordance with the above order.

DONE AND ORDERED in Chambers in Hillsborough County, Florida

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94-CF-010478-A 3/4/2024 2:55:31 PM

ROBIN F. FUSON, Circuit Judge

Attachments:

Application for Sentence Review
Verdict Form
Judgment and Sentence
Amended Judgment and Sentence
Order Granting Sentence Review
Transcript of Feb. 12, 2024, Sentence Review Hearing

Copies furnished to:

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Supreme Court of Florida

WEDNESDAY, JANUARY 14, 2026

Christopher Burton,
Petitioner(s)

v.

State of Florida,
Respondent(s)

SC2025-1568

Lower Tribunal No(s).:

2D2024-0622;

291994CF010478000AHC

This cause having heretofore been submitted to the Court on jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Article V, Section 3(b), Florida Constitution, and the Court having determined that it should decline to accept jurisdiction, it is ordered that the petition for review is denied.

No motion for rehearing will be entertained by the Court. See Fla. R. App. P. 9.330(d)(2).

MUÑIZ, C.J., and COURIEL, GROSSHANS, FRANCIS, and SASSO, JJ., concur.

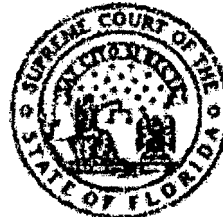
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Test:

SC2025-1568 1/14/2026

John A. Tomasino

Clerk, Supreme Court

SC2025-1568 1/14/2026



LC

APPENDIX C

CASE NO.: SC2025-1568

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Served:

CRIM APP TAMPA ATTORNEY GENERAL

CHRISTOPHER KENNARD BURTON

2DCA CLERK

HILLSBOROUGH CLERK

HON. ROBIN FERNANDEZ FUSON

WILLIAM CLEIGHTON RICHARD SHELHART

JONATHAN WADE STIDHAM, JR.