

IN THE DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

EDWIN ROMAN, :
Appellant, Petitioner, :
vs. : Case No. 2D09-5159
STATE OF FLORIDA, :
Appellee, Respondent. :
_____ :

NOTICE TO INVOKE DISCRETIONARY JURISDICTION

Notice is given that Appellant/Petitioner, Edwin Roman, invokes the discretionary jurisdiction of the Supreme Court of Florida to review the decision of this Court rendered on November 9, 2016. The decision is certified to be in direct conflict with decisions of other district courts of appeal.

CERTIFICATE OF SERVICE

I certify that a copy has been served via the portal to the Attorney General's Office at CrimappTPA@myfloridalegal.com, on this 2nd day of December, 2016

Respectfully submitted,

/s/ Matthew D. Bernstein

HOWARD L. "REX" DIMMIG, II
Public Defender
Tenth Judicial Circuit
(863) 534-4200

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RECEIVED 12/02/2016 3:41 pm FLORIDA SUPREME COURT
RECEIVED, 12/02/2016 01:38:26 PM, Clerk, Second District Court of Appeal

IN THE SECOND DISTRICT COURT OF APPEAL, LAKE LAND, FLORIDA

November 9, 2016

EDWIN ROMAN,)	
)	
Appellant,)	
)	
v.)	Case No. 2D09-5159
)	
STATE OF FLORIDA,)	
)	
Appellee.)	
_____)	

BY ORDER OF THE COURT:

Appellant's motion for rehearing is denied; the motion for written opinion is granted. The prior per curiam affirmance dated July 13, 2016, is withdrawn, and the attached opinion is issued in its place. No further motions for rehearing will be entertained.

I HEREBY CERTIFY THE FOREGOING IS A
TRUE COPY OF THE ORIGINAL COURT ORDER.


MARY ELIZABETH KUENZEL, CLERK

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

EDWIN ROMAN,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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Case No. 2D09-5159

Opinion filed November 9, 2016.

Appeal from the Circuit Court for Polk
County; Michael E. Raiden, Judge.

Howard L. Dimmig, II, Public Defender,
and Matthew D. Bernstein, Assistant
Public Defender, Bartow, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Dawn A. Tiffin,
Assistant Attorney General, Tampa, for
Appellee.

KELLY, Judge.

Edwin Roman appeals from his sentences for two counts of sexual battery
on a person less than twelve years of age (counts I & II) and one count of lewd
molestation (count III). He was seventeen years old at the time of the offenses.

After a jury found Roman guilty of the charged offenses, the trial court sentenced Roman to concurrent terms of life in prison for counts one and two and a concurrent fifteen-year term for count three. While Roman's appeal was pending the Supreme Court decided Graham v. Florida, 560 U.S. 48 (2010) (holding that a juvenile seventeen years old or younger cannot be sentenced to life without parole in a nonhomicide case). Roman filed a motion to correct sentencing error citing Graham, which the trial court granted. The court resentenced Roman to forty years in prison for count one and a consecutive fifteen-year prison term for count two followed by twenty-five years of sexual offender probation. The court imposed a concurrent fifteen-year term in prison for count three.

We affirm Roman's fifty-five-year aggregate prison sentence on the basis of Williams v. State, 197 So. 3d 569, 572 (Fla. 2d DCA 2016) (holding that Williams' "fifty-year sentence is not a de facto life sentence in violation of Graham"). We certify conflict with Peterson v. State, 193 So. 3d 1034 (Fla. 5th DCA 2016) (reversing a juvenile offender's fifty-six-year prison sentence for a nonhomicide offense).

Affirmed.

LaROSE and LUCAS, JJ., Concur.

SECOND DISTRICT COURT OF APPEAL OF FLORIDA
P.O. BOX 327
LAKELAND, FLORIDA 33802-0327
(863) 499-2290

December 2, 2016

Re:

Edwin Roman
v.
State of Florida
Appeal No.: 2D09-5159
Trial Court No.: 53-2007CF-001736-01
Trial Court Judge:

Florida Supreme Court
Attn: Clerk's Office

Attached is a certified copy of the notice invoking the discretionary jurisdiction of the Supreme Court, pursuant to Rule 9.120, Florida Rules of Appellate Procedure. Attached also is this Court's opinion or decision relevant to this case.

 The filing fee prescribed by Section 25.241(3), Florida Statutes, was paid through the portal.

 The filing fee prescribed by Section 25.241(3), Florida Statutes, was received by this court and is attached.

 The filing fee prescribed by Section 25.241(3), Florida Statutes, was not received by this court.

 X Petitioner/Appellant has been previously determined insolvent by the circuit court or our court in the underlying case.

 Petitioner/Appellant has already filed, and this court has granted, petitioner/appellant's motion to proceed without payment of costs in this case.

No filing fee is required because:

- Summary Appeal, pursuant to rule 9.141
- From the Unemployment Appeals Commission
- A Habeas Corpus proceeding
- A Juvenile case
- Other

If there are any questions regarding this matter, please do not hesitate to contact this office.

Sincerely,

Mary Elizabeth Kuenzel
Clerk

By: Joshua Dannelley

MK: jd

cc: Matthew Bernstein, A.P.D.
Helene S. Parnes, A.A.G.
Dawn A. Tiffin, A. A. G.