

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

CASE NO.: **16-2010-CF-12655-AXXX**
DIVISION: CR-G

STATE OF FLORIDA

v.

KEITH DEONTAY LOVE,
Defendant.

ORDER GRANTING MOTION TO CORRECT ILLEGAL SENTENCE

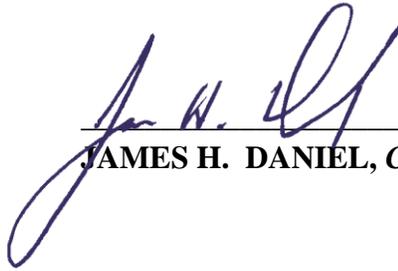
Defendant has filed a Motion to Correct Illegal Sentence in Case No.: 2010-cf-12655. Having reviewed the motion, relevant statutes, and pertinent documents in the Clerk's file and been advised by counsel for both the Defendant and the State that they are in agreement that certain aspects of the original sentence in this case is illegal, the court GRANTS the Defendant's motion and directs the Clerk of the Court to file an Amended Judgment and Sentence in accordance with this order.

In this case, the State charged the Defendant with one count of Sexual Battery under §794.011(3), Fla. Stat. The State further alleged that the Defendant was in actual possession of a firearm during the commission of the offense in violation of §775.087(2)(a), Fla. Stat. After the Defendant's plea, he was given a split sentence of 50 years in Florida State Prison followed by probation for the remainder of his life. The original Final Judgment and Sentence reflects that the Defendant also received a 25 year minimum mandatory sentence under §775.087(2)(a) for actual possession of a firearm. This is technically incorrect. The 25 year minimum mandatory portion of the Defendant's sentence is based on the "Dangerous Sexual Felony Offender" statute found at §794.0115(7), Fla. Stat., and not §775.087(2)(a).

Based on the foregoing, the Clerk of the Court is ordered to enter an Amended Final Judgment and Sentence with the following correction:

1. The 25 year minimum mandatory portion of the Defendant's sentence is based on §794.0115(7), Fla. Stat.
2. All other aspects of the original Final Judgment and Sentence shall remain the same.¹

DONE AND ORDERED in Chambers, in Jacksonville, Duval County, Florida, on this 25th day of August, 2017.



JAMES H. DANIEL, *Circuit Judge*

Copies to:
Cameron S. French, Esquire
Rocco J. Carbone, III, Esquire

¹ The Defendant has argued that the State improperly calculated his guideline scoresheet under the Criminal Punishment Code. The State originally calculated a guideline score of 21.0375 years. While the court does not agree with the Defendant's argument that his score should be lower, it makes no difference in the outcome of his sentence. The Defendant qualified as a dangerous sexual felony offender under §794.0115(2)(b), Fla. Stat., because he used or threatened to use a deadly weapon during the commission of the offense. As such, the court was required to sentence Defendant to a minimum term of 25 years up to life.