

IN THE
FIFTH JUDICIAL CIRCUIT COURT
CITRUS COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

v.

MICHAEL ROSADO,

Defendant.

Case No. 41998-CF-717

ORDER ON JUDICIAL REVIEW OF SENTENCE

THIS COURT having considered the Defendant's Application for a Sentence Review filed pursuant to Florida Rule of Criminal Procedure 3.802, having reviewed the records of this case and all documents pertinent to the Defendant's application, having held a hearing on June 26, 2024, and being otherwise fully advised in the premises, finds as follows:

I. BACKGROUND

A. On October 13, 1999, the Defendant was found guilty after a jury trial of count I, first-degree murder; count II, attempted second-degree murder with a firearm; and count III, conspiracy to commit first-degree murder. At the time of the offenses, the Defendant was 16 years old. On November 12, 1999, he was sentenced to life without the possibility of parole as to count I, and 199 months' imprisonment as to counts II and III – with those sentences to be served consecutive to count I. The Defendant's judgment and sentence was affirmed on direct appeal. *See Rosado v. State*, 766 So. 2d 1247 (Fla. 5th DCA 2000).

B. In 2017, the Defendant was granted a resentencing hearing pursuant to *Miller v. Alabama*, 567 U.S. 460 (2012). On September 7, 2017, the Court (the Honorable Richard A. Howard) resentenced the Defendant to 40 years' imprisonment as to count I – the minimum sentence authorized by law.¹

C. The judicial review hearing pursuant to section 921.1402, Florida Statutes, was held on June 26, 2024.

II. THE REQUIREMENTS OF SECTION 921.1402, FLORIDA STATUTES.

Section 775.082(1)(b)l., Florida Statutes, states that a defendant convicted of homicide that was committed when the defendant was a juvenile is entitled to a review of his sentence after 25 years. The statute provides that the Court shall hold a judicial review hearing to determine whether the juvenile offender's sentence should be modified. In addition to a consideration of the factors in section (6) of the statute, the Court "shall" consider any factor it deems appropriate. If the Court determines that the juvenile offender has been rehabilitated and is reasonably believed to be fit to reenter society, "the court shall modify the sentence and impose a term of probation of at least 5 years."

The Court notes that under Florida law, the sentencing hearing places a greater weight on the facts of a particular case in addition to other sentencing factors – while a judicial review hearing places a greater weight on the juvenile offender's conduct while incarcerated. As explained by the Second District Court of Appeal in *Murphy v. State*, 368 So. 3d 1025, 1027-1028 (Fla. 2d DCA 2023):

¹ In 2017, Judge Howard resentenced the Defendant to 16 years' imprisonment as to counts II and III – with those sentences to be served concurrent to count I. The Defendant has now completed his sentences for counts II and III.

The trial court's task at a sentence review hearing is singular: determine whether "the juvenile offender has been rehabilitated and is reasonably believed to be fit to reenter society." § 921.1402(7). To aid the trial court in completing this task, the statute requires the trial court to conduct an evidentiary hearing at which the juvenile can demonstrate that he has been "rehabilitated and is reasonably believed to be fit to reenter society." § 921.1402(6). If the juvenile offender demonstrates both rehabilitation and that he is fit to reenter society, the statute provides that the trial court "shall modify the sentence and impose a term of probation of at least 5 years." § 921.1402(7).

(Footnote omitted).

III. EVIDENCE PRESENTED AT THE JUDICIAL REVIEW HEARING

During the judicial review hearing, the Court heard victim impact statements and testimony in support of the Defendant's Application for a Sentence Review, including the expert testimony of Dr. Heather Holmes, a forensic psychologist, and the testimony from several character witnesses, including:

- the Defendant's son (Michael Rosado Jr.), who was conceived three months prior to the criminal incident in this case. Despite the fact that the Defendant has been incarcerated for all of his son's life, the Defendant played a key role in his son's upbringing – encouraging him to be successful in life. The Defendant's son is currently serving in the United States Air Force, gaining the rank of E-4;
- people who have volunteered in the prison system and who observed the Defendant's leadership within the prison and the positive impact he has had on other inmates; and
- former inmates who met the Defendant while incarcerated, and who explained that while in prison, the Defendant encouraged them and influenced them to turn their lives around and refrain from crime and violence.

The Court also received evidence and testimony relating to the numerous betterment programs that the Defendant has completed while in prison. In particular, while at Charlotte

Correctional Institution, the Defendant was the president of the Faith and Character Based program, and he led and mentored many other inmates as they completed the program. The Court also notes that a letter was submitted by Jennifer Lucas, a case manager at the Citrus County Detention Center. In the letter, Ms. Lucas explains that since the Defendant was moved to the detention center earlier this year, the detention center has set up a program whereby the Defendant has been speaking to teenagers – and the Defendant’s presentations have had a positive impact in influencing the teenagers to remain out of trouble. Finally, evidence was also presented that the Defendant has been accepted into the Abe Brown Ministries One Year Transitional Living Program in Tampa – a nationally recognized reentry program.

IV. JUDICIAL REVIEW FACTORS

For purposes of judicial review, the Court considers the factors set forth in § 921.1402(6)(a-i) Florida Statutes.

a. Whether the juvenile offender demonstrates maturity and rehabilitation.

The record establishes that the Defendant has demonstrated maturity and rehabilitation. Clearly the Defendant is not the same person he was 26 years ago. As Dr. Holmes testified, there is ample evidence that the Defendant is mature, including the process he has undergone to accept full responsibility for his actions. In a penal system where “lifers” do not get the opportunity to participate in most programs, the Defendant’s involvement in prison programs is remarkable. Over and over again throughout his time in prison, the Defendant has been placed in positions of trust by Department of Corrections officials.

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

Dr. Holmes administered a risk assessment to the Defendant, which yielded a finding that the Defendant is now in the low risk category for reoffending.

c. The opinion of the victim or the victim's next of kin.

The effect of the Defendant's criminal actions 26 years ago was devastating to the decedent's family. The loss of a son, brother, and friend cannot ever be compensated.

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.

As acknowledged by the Defendant at the judicial review hearing, he caused the death of Michael Reeves and he accepts full responsibility for his actions.

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

As Judge Howard noted in the 2017 resentencing order, the Defendant has admitted his guilt and has expressed remorse. The testimony and evidence presented during the judicial review hearing reconfirms that the Defendant has extreme remorse for his actions and the pain he has caused the decedent's family.

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

The Defendant was 16 years old at the time of the criminal incident. This reflects a period of immaturity, impulsivity, and recklessness – one of the major hallmarks of youth which was pivotal in the *Miller* decision and its predecessors. *See Miller*, 567 U.S. at 471.

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.

As explained in Judge Howard's 2017 resentencing order, after a period of adjustment, the Defendant "surrendered his criminal proclivities, becoming a 'compliant prisoner.'" The Defendant obtained his GED and he has completed numerous programs. Evidence presented during the judicial review hearing demonstrates further maturity and rehabilitation, as the

Defendant has now become a trusted leader within the Department of Corrections – actively mentoring others to be successful.

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

A report from Dr. James Garbarino, Ph.D, indicates that the Defendant grew up in a dysfunctional family environment.

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

As explained above, the Defendant was given a mental health assessment and a risk assessment. The Defendant is of high average intelligence and scored low for risk of future violence.

V. THE COURT'S CONCLUSIONS

Perhaps the first step in rehabilitation is a full acceptance of responsibility for the crime one has committed. The Defendant has done that. He entered the Department of Corrections as a 16-year-old child, and over the course of the last 26 years, he has not only completed numerous programs, but he has been recognized as a trusted leader by the Department of Corrections – and actively assists in helping other inmates become successful.

The United States Supreme Court has made it clear that children are constitutionally different from adults for purposes of sentencing. The United States Supreme Court noted that “[b]ecause juveniles have diminished culpability and greater prospects for reform . . . they are less deserving of the most severe punishments.” *Graham v. Florida*, 560 U.S. 48, 68 (2010). Our state legislature has determined that those sentenced as adults while a juvenile may be released from incarceration under certain circumstances. After serving 25 years, an inmate can request the court to determine whether the inmate has been rehabilitated and whether they are fit to re-enter society.

As a judge, I do not have a crystal ball to help me in making this difficult and important decision, but in this case, I do have the benefit of 26 years of history to guide me.

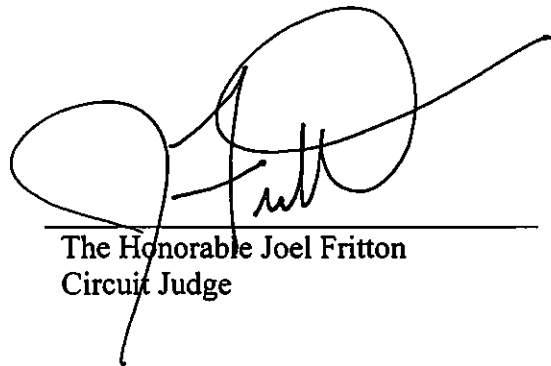
I know that while the Defendant has been living behind bars for the past 26 years, members of the decedent's family have been living in their own prison and time will not do anything to diminish how one selfish act 26 years ago forever changed their family. The pain the Defendant caused will never go away.

The Court has weighed and considered the testimony and evidence presented at the judicial review hearing. Ultimately, the Court finds that pursuant to section 921.1402(7), the Defendant has been rehabilitated and is reasonably believed to be fit to reenter society. Accordingly, it is;

ORDERED AND ADJUDGED that the Defendant's previously-imposed prison sentence is modified, and the Court imposes a term of probation of 15 years. The Court waives cost of supervision for the first 3 years of probation. Thereafter, the cost of supervision shall be 50% of the rate in effect at the time. The Defendant shall follow all conditions of release required by the Abe Brown Reentry Program. There shall be no contact directly or indirectly with any member

of the victims' families unless there is a request by them for contact. *Defendant shall have NO contact with the family of the victim, including Christopher or William Reaves*
DONE AND ORDERED in open court in Citrus County, Florida this 26 day of June,

2024.



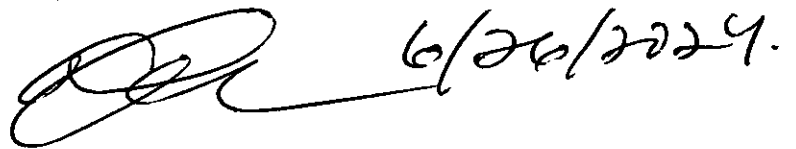
The Honorable Joel Fritton
Circuit Judge

Copies furnished to:

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A handwritten signature in black ink, followed by the date "6/26/2024." The signature is stylized and appears to be "PM" or similar initials.