

IN THE CIRCUIT COURT OF THE Seventh JUDICIAL CIRCUIT  
IN AND FOR Flagler COUNTY, STATE OF FLORIDA

State of Florida, )  
Plaintiff, )  
v. )  
William R. Capeland, )  
Defendant. )

RECEIVED

JUL 17 2017

Case No: 11-533 DISTRICT COURT OF APPEAL  
FIFTH DISTRICT

**NOTICE OF APPEAL**

NOTICE IS GIVEN that William R. Capeland, movant, in proper person, appeals to the Fifth District Court of Appeal, the order of this Court rendered on the 19<sup>th</sup> day of June, 2017. The nature of the order is a final order 3,800 (a)

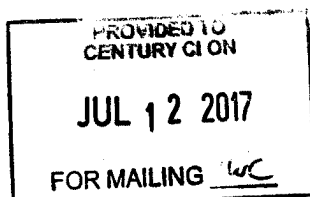
**CERTIFICATE OF SERVICE**

I certify that a copy of hereof has been furnished to the Attorney General, 444 Seabreeze Boulevard, Suite 500, Daytona Beach, FL 32118 and the State Attorney, Firm C. Hammond Justice Center, 1764 East Meady Blvd, Building #1 Bunnell, FL 32110, by placing in the hands of an institutional official for mailing on this 13<sup>th</sup> day of July, 2017.

Respectfully submitted and served,

1s/ William Capeland  
William Capeland, DC# V42312  
(Print Name)

Century Correctional Institution  
400 Tedder Road  
Century, Florida 32535-3700



IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT  
IN AND FOR FLAGLER COUNTY, FLORIDA

STATE OF FLORIDA

CASE NO.: 2011-CF-000533  
DIVISION 50: Judge Dennis Craig

v.

WILLIAM COPELAND,

Defendant.

**ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT'S MOTION  
TO CORRECT ILLEGAL SENTENCE**

THIS MATTER came before the Court for consideration of the Defendant's *pro se* Motion to Correct Illegal Sentence, filed on April 26, 2017, pursuant to Florida Rule of Criminal Procedure 3.800(a). The Court, having reviewed the motion, the State response, the court file, and being fully advised in the premises, hereby finds as follows:

On May 18, 2011, Defendant shot a firearm through a sliding glass door into the house of Accursio Venezia, striking and causing great bodily harm to Mr. Venezia. Defendant was charged by an Amended Information with:

(I) Attempted First Degree Murder with a Firearm, §§ 777.04(1), 782.04(1)(a), and 775.087(1), Fla. Stat. (2011);

(II) Aggravated Battery with a Firearm Causing Great Bodily Harm, §§ 784.045(1)(a), 775.087(1) and (2), Fla. Stat. (2011); and

(III) Shooting into a Building, § 790.19, Fla. Stat. (2011).

Defendant was tried by jury on all three counts from November 13-17, 2012, and found guilty as charged on all counts. For both Counts I and II, the jury specifically found that Defendant actually

possessed a firearm, discharged a firearm, and inflicted great bodily harm on Mr. Venezia. Exhibit A, Jury Verdict.

On December 14, 2012, Defendant was sentenced on Counts I and II to concurrent terms of 40 years of incarceration, with a mandatory minimum of 25 years, pursuant to section 775.087(2)(a)(3), Florida Statutes (2011). On Count III, Defendant was sentenced to 15 years of incarceration to be served concurrently with the other counts. Defendant appealed, and his judgment and sentence were *per curiam* affirmed, with Mandate issued on April 6, 2015.

In the instant motion, Defendant alleges that his sentences for both Counts I and II are illegal. The Court reviewed the motion and directed the State to respond as to Count II only. The State filed a Response on May 31, 2017, conceding error as to the sentence in Count II. The Court agrees, and Defendant's motion as to Count II shall be granted. *Hatten v. State*, 203 So. 3d 142 (Fla. 2016). Defendant shall be resentenced on Count II.

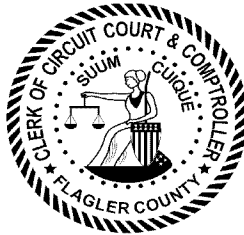
For Count I, the Court shall deny the motion. Use of a firearm is not an essential element of attempted first degree murder. *See* §§ 777.04(1), 782.04(1)(a), Fla. Stat. (2011). Because Defendant used a firearm during the commission of a first degree felony, it is reclassified as a life felony, under Florida's 10-20-Life statute. § 775.087(1)(a), Fla. Stat. (2011). The jury found that Defendant discharged a firearm during the commission of the attempted first degree murder, resulting in great bodily harm to Mr. Venezia; therefore, the Court was required to sentence Defendant to at least a minimum term of 25 years on Count I. § 775.087(2)(a)3., Fla. Stat. (2011). The Court finds no error in Defendant's sentence on Count I.

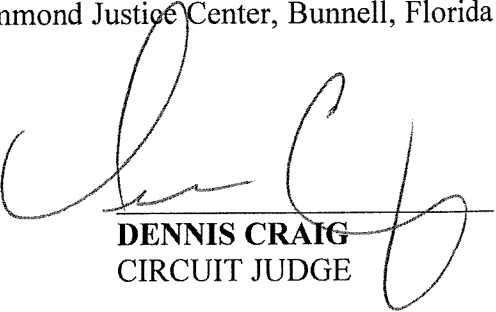
Therefore, it is ORDERED and ADJUDGED,

1. Defendant's Motion to Correct Illegal Sentence is DENIED as to Count I;
2. Defendant's Motion to Correct Illegal Sentence is GRANTED as to Count II; and
3. Defendant's sentence in Count II is VACATED, and Defendant shall be re-sentenced on Count II.

**Defendant has the right to appeal within 30 days of the rendition of the Order.**

DONE and ORDERED in Chambers, Kim C. Hammond Justice Center, Bunnell, Florida  
this 19<sup>th</sup> day of June, 2017.



  
**DENNIS CRAIG**  
CIRCUIT JUDGE

6/19/2017 2:07 PM 2011 CF  
e-Signed 6/19/2017 2:07 PM 2011 CF  
000533

Copies To:

Office of the State Attorney

William R. Copeland, D.C. #V42342, Century Correctional Institution, 400 Tedder Road, Century,  
Florida 32535-3659

# Exhibit A

IN THE CIRCUIT COURT, SEVENTH JUDICIAL CIRCUIT,  
IN AND FOR FLAGLER COUNTY, FLORIDA

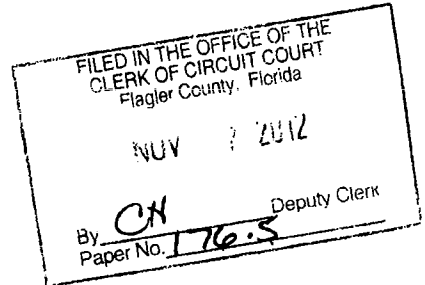
STATE OF FLORIDA

vs.

CASE NO. CF-11-533

WILLIAM R. COPELAND,

Defendant.



**JURY VERDICT**

**COUNT I**

WE THE JURY find the Defendant, WILLIAM R. COPELAND, as follows as to Count I of the Information:

(Check ONLY ONE as to Count I)

GUILTY as charged of the crime of ATTEMPTED FIRST DEGREE MURDER.

*If you find the Defendant guilty of Attempted First Degree Murder, do you further find beyond a reasonable doubt that, during the commission of the Attempted First Degree Murder, William R. Copeland:*

(Check ONE or MORE as you find:)

Actually possessed a firearm? Yes  No

Discharged a firearm? Yes  No

Inflicted great bodily harm on Accursio Claudio Venezia? Yes  No

GUILTY of the lesser included crime of ATTEMPTED SECOND DEGREE MURDER.

*If you find the Defendant guilty of Attempted Second Degree Murder, do you further find beyond a reasonable doubt that, during the commission of the Attempted Second Degree Murder, William R. Copeland:*

(Check ONE or MORE as you find:)

Actually possessed a firearm? Yes  No

Discharged a firearm? Yes  No

Inflicted great bodily harm on Accursio Claudio Venezia? Yes  No

\_\_\_\_\_ GUILTY of the lesser included crime of ATTEMPTED VOLUNTARY MANSLAUGHTER.

(Check as you find:)

*If you find the Defendant guilty of Attempted Voluntary Manslaughter, do you further find beyond a reasonable doubt that, during the commission of the Attempted Voluntary Manslaughter, William R. Copeland:*

Personally carried or used a firearm or weapon? Yes \_\_\_\_\_ No \_\_\_\_\_

\_\_\_\_\_ GUILTY of the lesser included crime of AGGRAVATED ASSAULT.

*If you find the Defendant guilty of Aggravated Assault, do you further find beyond a reasonable doubt that, during the commission of the Aggravated Assault, William R. Copeland:*

(Check ONE or MORE as you find:)

Actually possessed a firearm? Yes \_\_\_\_\_ No \_\_\_\_\_

Discharged a firearm? Yes \_\_\_\_\_ No \_\_\_\_\_

Inflicted great bodily harm on Accursio Claudio Venezia? Yes \_\_\_\_\_ No \_\_\_\_\_

\_\_\_\_\_ GUILTY of the lesser included crime of ASSAULT.

\_\_\_\_\_ NOT GUILTY.

**COUNT II**

WE THE JURY find the Defendant, WILLIAM R. COPELAND, as follows as to Count II of the Information:

(Check ONLY ONE as to Count II)

GUILTY as charged of the crime of AGGRAVATED BATTERY.

*If you find the Defendant guilty of Aggravated Battery, do you further find beyond a reasonable doubt that, during the commission of the Aggravated Battery, William R. Copeland:*

(Check ONE or MORE as you find:)

Actually possessed a firearm? Yes  No

Discharged a firearm? Yes  No

Inflicted great bodily harm on Accursio Claudio Venezia? Yes  No

GUILTY of the lesser included crime of FELONY BATTERY.

*If you find the Defendant guilty of Felony Battery, do you further find beyond a reasonable doubt that, during the commission of the Felony Battery, William R. Copeland:*

(Check as you find:)

Personally carried or used a firearm or weapon? Yes  No

GUILTY of the lesser included crime of BATTERY.

NOT GUILTY.



COUNT III

WE THE JURY find the Defendant, WILLIAM R. COPELAND, as follows as to Count III of the Information:

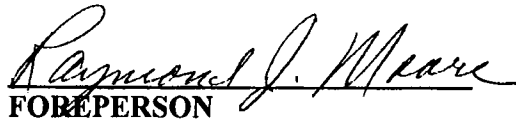
(Check ONLY ONE as to Count III)

GUILTY as charged of the crime of SHOOTING INTO A BUILDING.

NOT GUILTY.

SO SAY WE ALL.

Dated at Bunnell, Flagler County, Florida, this 17<sup>th</sup> day of NOVEMBER, 2012.

  
FOREPERSON