

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JANUARY TERM 2013

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CLYDE EDWARD JOHNSON,

Appellant,

v.

Case No. 5D12-831

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed March 15, 2013

Appeal from the Circuit Court
for Lake County,
Lawrence J. Semento, Judge.

Baya Harrison, III, Monticello, for
Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Kellie A. Nielan,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Clyde Edward Johnson challenges his 100-year sentence on a charge of burglary of a dwelling while armed, arguing that the sentence violates *Graham v. Florida*, 130 S.Ct. 2011 (2010), as he was under 18 years old at the time of the offense.¹ As our court has already rejected the argument that a term of years sentence

¹ Johnson was originally sentenced to life on this charge, and to concurrent life sentences on five related charges: three counts of armed kidnapping to facilitate a felony; one count of attempted first degree murder with a firearm; and, one count of

violates *Graham* in *Henry v. State*, 82 So. 3d 1084 (Fla. 5th DCA 2012), *rev. granted*, 2012 WL 5991345 (Fla. Nov. 6, 2012), we affirm. We certify that this decision conflicts with *Floyd v. State*, 87 So. 3d 45 (Fla. 1st DCA 2012) and *Adams v. State*, 37 Fla. L. Weekly D1865 (Fla. 1st DCA Aug. 8, 2012).

AFFIRMED; CONFLICT CERTIFIED.

TORPY, LAWSON and JACOBUS, JJ., concur.

sexual battery using force or a weapon (firearm). All six life sentences were set aside following the United States Supreme Court's decision in *Graham*. The 100-year sentence challenged in this appeal was imposed at Johnson's resentencing. As for the other five counts, the trial court resentedenced Johnson to concurrent 40-year sentences, which are not challenged on appeal.