

IN THE SECOND DISTRICT COURT OF APPEAL, LAKELAND, 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 The prior per curiam affirmance dated July 13, 2016, is withdrawn, and the attached opinion is issued in its place.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.)
_____)

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.