

# Third District Court of Appeal

## State of Florida

Opinion filed August 7, 2019.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D19-758  
Lower Tribunal No. 89-49032 A

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**Ronel Jean Baptiste,**  
Appellant,

vs.

**The State of Florida,**  
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Miami-Dade County, Miguel de la O, Judge.

Ronel Jean Baptiste, in proper person.

Ashley Moody, Attorney General, for appellee.

Before HENDON, MILLER, and LOBREE, JJ.

HENDON, J.

Ronel Jean Baptiste (“defendant”) seeks to reverse the trial court’s March 2019 denial of his motion to vacate or correct an illegal sentence pursuant to Florida Rule of Criminal Procedure 3.850(b). We affirm.

In this appeal from denial of postconviction relief, the defendant raises a challenge to both his conviction and his habitual offender sentences. The challenge to the final judgment of conviction, however, is not cognizable via Florida Rule of Criminal Procedure 3.850(b), and indeed his conviction was affirmed on appeal in 1993. Baptiste v. State, 624 So. 2d 730 (Fla. 3d DCA 1993). His claim that the case should have been brought in juvenile court has since been fully litigated, and we decline to address it further. The defendant next asserts that his habitual felony offender sentences are illegal because he committed the predicate offenses when he was a juvenile and thus those convictions cannot be used to qualify him for habitual offender sentencing. We find this claim is without legal merit.

The defendant was convicted and sentenced in 1991 as a habitual violent felony offender for the 1989 non-homicide offenses of armed robbery, armed kidnapping, and armed burglary. He was sentenced to thirty years with a ten-year mandatory minimum for Counts I and II, the armed robbery and armed burglary, and to life in prison with a fifteen-year mandatory minimum on Count III, the armed kidnapping. The convictions were affirmed on appeal. Id. In a subsequent post-conviction motion, the defendant raised the issue that his sentences were illegal

under Graham v. Florida, 560 U.S. 48 (2010),<sup>1</sup> because he was a juvenile at the time he committed the offenses. In May 2011, the trial court held an evidentiary hearing and determined that the defense proved by a preponderance of the evidence that the defendant was indeed a juvenile at the time of the offenses, entitling him to relief under Graham, but only as to the life sentence for armed kidnapping. At the subsequent sentencing hearing, the court appropriately vacated the life sentence for the armed kidnapping conviction pursuant to Graham and resentenced the defendant to thirty years in prison with a fifteen-year mandatory minimum sentence. The court noted that the remaining sentences were unaffected by Graham and re-imposed habitual violent felony offender classification for those counts. The defendant did not appeal.

The defendant's record shows that he was sentenced as a habitual felony offender based on several prior felony offenses.<sup>2</sup> On Graham resentencing in 2011, the defense agreed to waive any renewed testimony as to the defendant's status as a habitual offender and stipulated that the trial court could rely on the transcript from

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<sup>1</sup> The U.S. Supreme Court in Graham prohibited life without parole sentences for juveniles convicted of non-homicide offenses.

<sup>2</sup> A non-exhaustive list of the defendant's pre-1991 prior felony cases include: Case nos. F86-2166, F86-37255, F86-35892, F87-41924, F87-23912, F87-36405, F87-36404B, F87-1162, F88-23976, F89-18321. The docket in each of those cases shows the defendant gave multiple aliases and birthdates indicating he was an adult at the time he committed the offenses.

the original 1991 sentencing. Furthermore, at that hearing, the defendant admitted on the record to having given false names and birthdates in each of those prior offenses, which resulted in his convictions and sentences as an adult in those cases. By failing to raise a timely objection to the filing of charges in adult court, he waived the right to challenge those convictions. See State v. Griffith, 675 So. 2d 911 (Fla. 1996); Williams v. State, 754 So. 2d 67, 69 (Fla. 4th DCA 2000) (holding a defendant can waive his or her right to be treated as a juvenile by silence; lying about one's age to secure a desired bond coupled with a failure to disclose one's true age at the plea conference also amounts to a waiver of such a right); Smith v. State, 345 So. 2d 1080, 1082 (Fla. 3d DCA 1977) (holding that where a defendant voluntarily submits to the jurisdiction of the circuit court's adult division, pleads guilty, does not appeal, and accepts the benefits therefrom, he is estopped from later changing his position and challenging the court's jurisdiction). Thus, the habitual offender sentences imposed in Case No. 89-49032 are not illegal. The defendant's remaining arguments are without merit.

Affirmed.