

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

vs.

CASE NO: 05-2007-CF-04880-AXXX-XX

LARRY D. GOODMAN,

Defendant.

_____/

TRANSCRIPT OF DIGITALLY
RECORDED HEARING

The Transcript of the Digitally Recorded
Proceedings taken in the above-styled case,
at the Moore Justice Center, 2825 Judge
Fran Jamieson Way, Viera, Florida, on the
12th day of August, 2025, before the
HONORABLE AARON J. PEACOCK.

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APPEARANCES:

For the Plaintiff:

TIFFANY MARIE COLON, ESQ.
Assistant State Attorney
Office of the State Attorney
2725 Judge Fran Jamieson Way
Building D
Viera, Florida 32940

For the Defendant:

Pro se

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EXHIBIT INDEX

State's Exhibit Number One 46
received in evidence:
(Information)

State's Exhibit Number Two 46
received in evidence:
(Notice of Intent)

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P R O C E E D I N G S

THE COURT: All right. This is 2007-CF-48580.

We are set for a resentencing.

My general background on the procedure here is that there was a motion filed by an attorney who has been relieved from any representation. That attorney was alleging that Mr. Goodman was sentenced on, under an illegal sentence.

I issued an order agreeing that the sentence was illegal, because of the, it was a ten year minimum mandatory sentence, instead of the fifteen year that the law required. That attorney asked for a rehearing.

On the rehearing, the argument was that there needs to be a de novo resentencing, because the habitual violent felony offender Statute requires -- or does not require, but indicates that it is a discretionary on the judge to issue a habitual violent felony offender sentence or not.

Based on the argument I granted a de novo resentencing. At some point, Mr. Goodman had, had asked to represent himself. I relieved the attorney. I am, I am sorry, I forget the attorney's name, but I relieved the attorney.

Mr. Goodman represents himself in this matter, and

1 we are scheduled for a resentencing.

2 Anything, Mr. Goodman, anything you want to add to
3 that for the record?

4 THE DEFENDANT: Yes. Yes, Your Honor. On my
5 docket, if you check it out, the DCA has taken
6 jurisdiction to answer the question if this Court has
7 jurisdiction for subject matter. Because, as I said the
8 last time I was here, I am not able to be resentenced to
9 a void conviction. If the original Judge, Lawrence V.
10 Johnston, III had no oath of office, because he was
11 retired in '98, I cannot be resentenced to that
12 conviction legally. And the DCA is now on this case.

13 So I am asking, can we pause this until they make
14 their decision if there is any type of judicial authority
15 here? Unless the State wants to dismiss, because they
16 have authority to do so.

17 THE COURT: Okay. State, any input?

18 MS. COLON: This is news to me, Your Honor. And I
19 was trying to see if maybe we had any sort of
20 correspondence, but I don't see anything. I am on BECA.

21 THE COURT: No, it is there.

22 MS. COLON: Okay.

23 THE COURT: There is an appeal at the Fifth.
24 I mean, I can -- I was just on it. Must have frozen up.
25 Five days ago, it was, it is 5 D 2025 2387. And all they

1 have done is acknowledge that, there is an acknowledgment
2 letter.

3 MS. COLON: So I don't know if, I personally don't
4 know, if just because there is an acknowledgment letter,
5 I don't know if that means the proceedings are stayed at
6 this point. If they are not, then we can go forward.
7 If that is a question, that --

8 THE COURT: Well, I will make a decision that
9 they are not. So we are going to move forward.

10 Sir, you have been attacking for probably eighteen
11 years now your conviction. What you filed with the Fifth
12 DCA is an attack of your conviction again. It has
13 nothing to do with your resentencing.

14 THE DEFENDANT: Actually --

15 THE COURT: So your appeals for your conviction,
16 for attacking your conviction have been ruled upon
17 numerous times and, and that is not what we are here for
18 today.

19 Today is for a resentencing of an illegal sentence.
20 So I am going to deny your request to stay the
21 proceedings.

22 Anything else? Procedurally? I was on the
23 procedural part. I have put on the record what I believe
24 the procedural posture is of this hearing today. So I am
25 allowing the parties to make any additions, or make --

1 fill in anything I believe that they left off. I want us
2 all on the same page before we move forward today, so
3 that we can make sure we are all talking about the same
4 issues, the right issues, and what I ultimately have to
5 make a ruling on, so.

6 THE DEFENDANT: Okay. Article IV Section 4(b)(1)
7 of the Florida Constitution and the principle of
8 jurisdictional exclusivity.

9 THE COURT: What --

10 THE DEFENDANT: That identifies that the DCA does
11 have jurisdiction.

12 THE COURT: That what?

13 THE DEFENDANT: Procedurally.

14 THE COURT: That what?

15 THE DEFENDANT: Identifies that the Fifth District
16 Court of Appeals does have jurisdiction, once that notice
17 of appeal was acknowledged.

18 THE COURT: Okay. I have made my ruling.

19 THE DEFENDANT: Oh, I know. I was just putting for
20 the record, Your Honor.

21 THE COURT: Okay. Well, that has been on the
22 record. I made my ruling.

23 So do you have anything else you want to add as to
24 the procedural posture we are in right now for this case?

25 THE DEFENDANT: If we are -- we are going to do the

1 resentencing, correct? Okay.

2 THE COURT: Yes. Okay. State?

3 MS. COLON: If you're just asking about whether the
4 Court has missed anything, I agree with everything the
5 Court is saying. And as far as, you know, the
6 understanding of why we are here today is simply to do
7 the resentencing, do the HVFO, and then have him
8 resentedenced.

9 THE COURT: Okay. Well, let's talk about that.

10 MS. COLON: Yes, Your Honor.

11 THE COURT: Why do we have to redo the HVFO?

12 MS. COLON: I mean, I think that there is, there is
13 plenty of court -- there is plenty of documents within
14 the court file where courts have, the prior courts have
15 already found that he qualifies as a habitual violent
16 felony offender. There is an order adjudicating him.
17 Even the court minutes for him, he was resentedenced in
18 2009, again adjudicates him as a habitual violent felony
19 offender.

20 The only things that are not in the court file, but
21 are referenced in the transcript that are in the court
22 file at the time of sentencing, were the prior judgment
23 and sentence of the robbery from New York. That is the
24 underlying qualifying offense.

25 And so, if there is an issue with that, I have, I

1 put those in evidence, at least to be marked, but I do
2 think that the Court can make a ruling based on all the
3 previous filings and court decisions.

4 If not, however, the State was prepared to go
5 forward with the comparison from the robbery and his
6 fingerprints being rolled in open court, that would then
7 qualify him as a HVFO.

8 THE COURT: All right. Sir, what do you have to
9 say about that?

10 THE DEFENDANT: I object to that. And there is
11 multiple Supreme Court cases. The newest one is
12 Erlinger, and the Sixth Amendment, anything that enhances
13 a Defendant's sentence must be proven beyond a reasonable
14 doubt, preponderance of evidence by deciders of the
15 facts, which would be a jury. It is the Supreme Court's
16 holding as of today.

17 Apprendi versus New Jersey, Blakely versus
18 Washington, and Aileen, all state you gave me de novo, a
19 new slate clean. You have to -- the State, not you, must
20 prove all elements for all factual assertion they intend
21 to rely upon at re, resentencing. They must identify the
22 corresponding piece of admissible evidence, the chain of
23 custody for that evidence, and the specific Statutory
24 authority permitting its introduction, including, but not
25 limited to, the trial Judge's valid oath of office, to

1 convict me, I mean, to sentence me, to a void conviction.

2 Now does the State concede that a illegal sentence
3 constitutes a continuing violation of both the 5th and
4 14th Amendment to the United States Constitution? And if
5 so, what remedy does the State contend to
6 Constitutionally appropriate in such a circumstance?

7 THE COURT: If you think I am going to make them
8 answer questions from you, you are way wrong. That is
9 not going to happen.

10 So based on that, I find no need to make a decision
11 on HVFO. That decision has been made. The law in,
12 under the habitual violent felony offender says that it's
13 a separate hearing. It's not a sentencing. HVFO is not
14 a part of a sentencing as a hearing, and it says,
15 specifically in 7 --

16 THE DEFENDANT: 754. (d).

17 THE COURT: That in a separate hearing, the judge
18 will, or in a separate hearing, it will be determined
19 it was an HVFO. So it's not part of a sentencing.

20 What I granted you was a de novo resentencing.

21 THE DEFENDANT: But you're trying to say it is
22 not --

23 THE COURT: Sir, don't interrupt me. I won't
24 interrupt you.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And ask that you do not interrupt me.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: The de novo, a de novo resentencing is
4 the resentencing hearing. That is, I didn't grant you a
5 hearing on if you're habitual violent felony offender.
6 And so that law in Florida has not been parsed out.

7 Actually, the May case, I believe, is the case
8 that is up on appeal right now with the Supreme Court,
9 waiting for a decision.

10 THE DEFENDANT: That is PRR.

11 THE COURT: So, if in the future, they find, if in
12 the future, the Supreme Court finds that the, that the
13 Erlinger line of cases will apply retroactively, then
14 you would get a new hearing on the HVFO. But for these
15 purposes, I'm, I am not finding that I need to have that
16 hearing.

17 It has been determined that you were HVFO. It has
18 been signed by a judge. It is in the court file.

19 So I am giving you a new sentencing. And the
20 reason I gave you a de novo sentencing is because I have
21 got to determine if I am going to exercise my discretion
22 in sentencing you as an HVFO, or if I am not going to
23 exercise my discretion. And I'm going to sentence you as
24 HVFO, which has been found by a previous court. So
25 that is my ruling on that.

1 So as far as proceeding with sentencing, your
2 exhibits are marked, and I will have them marked as --
3 what did we call that, where they marked so they don't
4 take them back?

5 MADAM CLERK: (Indiscernible).

6 THE DEFENDANT: That ain't the law. This is sad.

7 THE COURT: Well, there was just something that
8 kept, that we kept it as part of the court file. I want
9 them to have -- I want them to be, if this gets appealed,
10 I want it to be part of the court file, what you marked
11 as exhibits, and to go along with my ruling. I don't
12 want you to take them back because you have marked them.

13 MADAM CLERK: (Indiscernible).

14 THE COURT: Right. That is what I just wanted to
15 make sure that you -- however you have to, because I know
16 it was just kind of a you-thing of what you have to call
17 it. She has proffered that she's -- would admit those if
18 I was doing that type of hearing. So those will be part
19 of the court file and record, if this is going to be
20 reviewed.

21 So, sir, how would you like to proceed with
22 sentencing?

23 THE DEFENDANT: I would like to be dismissed.
24 Motion to dismiss, sir. I object to this whole
25 proceeding, for the record.

1 THE COURT: Okay. Based on what?

2 THE DEFENDANT: Based on the fact that the law says
3 that you need a jury to give me a habitual sentence,
4 period, because the de novo, by every word of the
5 definition and every case that identifies when judges
6 have done this same thing before, every element must be
7 reexamined at a de novo. That's why it says a new,
8 Latin. Not based on anything from a prior judge, a prior
9 hearing, a prior anything. Every case law says that.
10 Florida and anywhere else.

11 THE COURT: Do you have it?

12 THE DEFENDANT: The State, do they have it?
13 Because I am --

14 THE COURT: You have got to, you really got to stop
15 talking to the State and asking the State questions.
16 This is your portion to make argument, and you are
17 citing, you are saying all the cases, every case. Well,
18 give me a case. Do you have it printed out? You wanted
19 to --

20 THE DEFENDANT: Apprendi versus New Jersey.

21 THE COURT: Don't interrupt me.

22 THE DEFENDANT: I gave you this case.

23 THE COURT: Don't interrupt me.

24 THE DEFENDANT: You just asked for it.

25 THE COURT: You want to operate pro se, sir. And

1 pro se means that you have to operate just like an
2 attorney would, and an attorney would be expected to
3 provide case law and have copies. Now I know that you
4 are under a disadvantage of being able to print and make
5 copies, probably, but you can't just, the record isn't
6 going to be able to be clear by just saying all of the
7 case law. So do you have some cites?

8 THE DEFENDANT: Correct. Apprendi vs. New Jersey,
9 530 US 466, 2000. And the Sixth Amendment.

10 THE COURT: Is that it? And you say Apprendi says
11 that on a resentencing, that the HVFO would have to be
12 reestablished by the State?

13 THE DEFENDANT: No. I am stating that upon de novo
14 resentencing, which is what we are having here, you must
15 prove every single element of any part of a sentence you
16 intend to give me.

17 THE COURT: State, do you have a response?

18 MS. COLON: I am pulling up the case law right now,
19 but I know generally from the Apprendi and Erlinger, and
20 there is also Blakely v. Washington. The case that I am
21 referencing right now is Burton v. State, it is at
22 969 So.2d 1087, and Modest v. State, it is at
23 892 So.2d 566, both of which say that those findings that
24 a jury would not have to make, do not apply retroactively
25 to things such as PRR, HVFO, HFO.

1 And so we are not dealing with a situation where
2 we are having to have that done in front of a jury and
3 make all of those findings, because it doesn't apply
4 retroactively. At least up until this point. I don't
5 know if that, the law is going to change in the future,
6 but as it stands today, it does not apply retroactively.

7 THE COURT: I mean, that's kind of my stance,
8 right? Like why we -- either, either that portion of
9 this case, the judge finding HVFO is going to be
10 determined that it applies retroactive in every case in
11 Florida, or every case that has ever been done is going
12 to have to have a jury trial to do HVFO or, or it is not
13 going to apply retroactively.

14 And so I just don't feel, after I have read the
15 cases, and after I have read that this resentencing
16 involves, has to involve a finding from the jury, from a
17 jury that he was HVFO, because that decision has been
18 made that he was HVFO.

19 Now if that decision in this court file is wrong,
20 and they find that these line of cases apply
21 retroactively, then that will work itself out, and that
22 part of this case would have to be heard by a jury.

23 But I don't think for this resentencing that I have
24 to, I have to make a determination, or a jury has to make
25 a determination for this resentencing.

1 I believe that this re sentencing was granted
2 solely based on that I couldn't, that I couldn't apply a
3 new minimum mandatory without having a resentencing to
4 determine if I was going to exercise my discretion, a
5 judge was going to exercise their discretion.

6 Because, honestly, at the time when we originally
7 heard it, I didn't even consider it discretionary. Even
8 today, I had to go back and look at it, because I thought
9 HVFO, I thought there was one of them that it wasn't
10 discretionary, but it obviously, the Statute says may or
11 may sentence, which leads everyone -- and I believe
12 someone told me there was a case, one of you told me that
13 there was a case that said that it is discretionary.
14 That a judge does not have to sentence HVFO.

15 So that was the part that I believed needed a
16 de novo resentencing, is if, if discretion should be
17 used, or if it should be an HVFO sentence, so.

18 How would you like to proceed? Well, you told me
19 that you would like the case dismissed, based on that
20 line of cases. I will deny that.

21 How would you like to proceed with sentencing?

22 THE DEFENDANT: Not to be sentenced. To be
23 released.

24 THE COURT: Okay. And that, that is not going to
25 happen.

1 THE DEFENDANT: Okay. Then it is not --

2 THE COURT: We are going to proceed with
3 sentencing.

4 THE DEFENDANT: Okay. No problem, sir.

5 THE COURT: So how would you like to proceed with
6 sentencing?

7 THE DEFENDANT: I would first like to know, if
8 you are going to utilize a previous decision, do we --
9 does that mean that everything previously decided is
10 still up for grabs, or just that one part?

11 THE COURT: Everything what? Everything like what?

12 THE DEFENDANT: Everything like the presentence
13 investigation, the recommendation that was on it, is that
14 still valid or no? Only the habitual?

15 THE COURT: Is there -- if you're asking me to
16 consider the presentence investigation that was there, if
17 it is in the court file, I could consider it at this
18 sentencing, if that is what you are asking me to do.

19 THE DEFENDANT: Okay. Then I would ask for you to
20 consider the recommended presentence investigation
21 sentence.

22 THE COURT: Okay.

23 MS. COLON: Your Honor, that was something I did
24 put as marked, just so there was a paper copy.

25 THE COURT: Can I see what they are talking about,

1 please? All right, let me go through this, because I
2 didn't realize what these were.

3 And just so Mr. Goodman knows, State's A is a one
4 count Information. State's B is a State's notice of
5 intent to seek habitual violent felony offender
6 penalties. State's C is a fingerprint card. State's D
7 -- oh, I see, State's D is from the State of New York.
8 Enclosed is a certified copy of a criminal history record
9 information report. Has a certified copy of fingerprint
10 images on file with the New York State Division of
11 Criminal Justice. So that is documents from the State of
12 New York, D. And then State's E is titled Presentence
13 Investigation 05-2007-CF-48580, with a Larry Goodman.
14 So we are, E is what you wanted me to consider.

15 So you don't have an objection to E coming into
16 evidence?

17 THE DEFENDANT: No, sir.

18 THE COURT: Here, can you show him this? I just,
19 just so you can see if this is what you were talking
20 about and that it matches what was in the court file that
21 you were referring to.

22 MS. COLON: I just want to make sure, because I see
23 fingerprints on the very back. I just want to make sure
24 there wasn't something with that shouldn't be with that.

25 THE COURT: That what?

1 MS. COLON: There is fingerprints on the very back,
2 and I am not used to seeing fingerprints in a PSI, so. I
3 don't know if something else got put with it.

4 THE COURT: Those are different exhibits?

5 MS. COLON: Yes, Your Honor, they are marked
6 separately. If I may approach?

7 THE COURT: Yes, please. So what one was that, E?
8 Oh, I see. Thank you. Sorry about that.

9 Thank you, sir. So State's Exhibit E, sir, was, is
10 that the presentence investigation that you were
11 referring to?

12 THE DEFENDANT: Yeah, but I didn't see it when that
13 lawyer, he had told me that they -- the recommendation
14 was ten years, but I don't see that number on that paper.

15 THE COURT: The lawyer that you had that got
16 the --

17 THE DEFENDANT: Todd, Todd Deratany, yes, sir.

18 THE COURT: Oh, way back when?

19 THE DEFENDANT: Yeah.

20 THE COURT: The first lawyer?

21 THE DEFENDANT: Yeah.

22 THE COURT: You are saying that Mr. Deratany told
23 you that the presentence investigation was recommending
24 ten years?

25 THE DEFENDANT: Yeah.

1 THE COURT: But you flipped through this and you
2 don't see that?

3 THE DEFENDANT: Correct. It only says Scoresheet
4 or something like that, under the recommendation part.

5 THE COURT: I am looking at what is in the court
6 file, as far as the digital court file. It is Document
7 Number 252, which corresponds with what is marked as
8 State's Exhibit A -- I mean E, State's Exhibit E. In the
9 notes on the, in the Clerk's -- or in the file says,
10 updated by Clerk on January 5th, 2024. Reason. Removed
11 from lefthand side of file at time of destruction.
12 Timestamped and placed in court file in preparation for
13 file disposal, so.

14 And what State's Exhibit E is, is a printout of
15 what is in the court file under Document 252. I guess
16 I am telling you that, because I don't see another
17 presentence investigation. The one in the court file is
18 this one, and I do see what you are saying. It does not,
19 it is actually a very -- I don't understand what they are
20 recommending. It says the Scoresheet sentencing range is
21 not available. If the sentencing range indicates a
22 non-state prison sentence the following supervision type
23 and special conditions are recommended for the Court's
24 consideration. Then there is a colon with nothing after
25 it. A negotiated plea is being considered, is being

1 considered by the Court, as follows, colon, and nothing.
2 The next page says, restitution. There is nothing filled
3 out, payable to nobody. Nothing filled out, I should
4 say. Environment to which offender might return is not
5 marked at all. Resources available to assist. There is
6 something underlined that says, exists within the
7 community. Oh, I see, resources available to assist this
8 particular offender. Exists within the community.
9 Alternative recommended dispositions. Should the Court
10 elect to depart from the recommended sentencing guideline
11 or Criminal Punishment Code sentence, and accept a
12 negotiated plea, the following recommendation is made,
13 colon, with nothing after it. Should the Court elect to
14 depart from the recommended sentencing guideline or
15 Criminal Punishment Code sentence the following
16 alternative disposition is provided for the Court's
17 consideration, colon, nothing under it. Typed July 14th,
18 2008. And there is no probation signature or supervisor
19 signature and date. And then the last page is blank.

20 THE DEFENDANT: Blank.

21 THE COURT: So, you asked for me to take, you asked
22 for me to take judicial notice of the PSI in the court
23 file, and that is the same as what is printed out as
24 State's Exhibit E.

25 Do you have any objection to State's Exhibit E?

1 THE DEFENDANT: Now, yes, I do, because who made
2 it, if they didn't fill out any of the information?

3 THE COURT: It is in the court file.

4 THE DEFENDANT: There's a lot of things in the
5 court file, Your Honor.

6 THE COURT: You asked me to take consideration for
7 it.

8 THE DEFENDANT: And I'm just objecting to it now,
9 sir. So, thank you.

10 THE COURT: So you don't want me to take judicial
11 notice of what is in the court file?

12 THE DEFENDANT: It has nothing in it to see. At
13 sentencing, even the lawyer said it. He said in the PSI,
14 they recommended ten years. So that is where I was
15 getting it from.

16 THE COURT: Okay.

17 THE DEFENDANT: Yeah, so I was just asking for
18 that, so.

19 THE COURT: Okay. Next. You can continue. You
20 can continue.

21 THE DEFENDANT: What am I supposed to continue to
22 do?

23 THE COURT: Whatever you want to present for
24 sentencing.

25 THE DEFENDANT: I just did eighteen years as

1 principal to somebody else committing a crime. Cool,
2 right?

3 I found out, allegedly, the judge never had an oath
4 of office. He retired in '98.

5 THE COURT: Well, if you are doing a testify --

6 THE DEFENDANT: No, no, no.

7 THE COURT: Hold on. No, I need to put you under
8 oath if you are going to testify.

9 THE DEFENDANT: Well, if I'm not testifying --

10 THE COURT: Please raise your right hand, as well
11 as you can.

12 THE DEFENDANT: How do I answer any of your
13 questions?

14 THE COURT: Because you were acting -- all right.
15 If you want to ask me questions, I will be happy to
16 answer your questions.

17 First of all, if you are going to act as your
18 attorney, as you can see, I don't put any attorneys under
19 oath. So argument is not testimony. However, what you
20 were just about to say is testimony. It is your personal
21 feelings on what you want to present for sentencing.

22 So if you want to make argument and not present any
23 evidence for me for sentencing, that is fine. We can
24 proceed without you being sworn in, because you are
25 acting as your own attorney. But if you want to present

1 things for me to consider at sentencing, you have to be
2 placed under oath. So would you like to be placed under
3 oath?

4 THE DEFENDANT: Can I ask what would be eligible
5 for presentation?

6 THE COURT: Anything not argument.

7 THE DEFENDANT: So it has to be like a document or
8 something like that?

9 THE COURT: No. Testimony is not argument.

10 THE DEFENDANT: Testimony is not argument. Okay.

11 THE COURT: So if you wanted to testify and tell
12 me, just like a lawyer, if a lawyer called you up to the
13 stand and you weren't representing yourself, if a lawyer
14 called you up to the stand and I would put you under
15 oath, and they would ask you, Mr. Goodman, what would you
16 want to say about this? Mr. Goodman, I don't know what
17 their questions would be. But I don't put the attorneys
18 under oath when they're making argument, because their
19 argument is just that, argument. It is not -- it is told
20 to the jury. It is not evidence. It is not any -- it is
21 just argument that they are making.

22 However, if you want to present your testimony
23 through yourself, because you're your own attorney, then
24 I would have to place you under oath for the testimonial
25 part. You are not going to be asked questions,

1 obviously, by yourself, but if you want to put that as
2 part of the record as evidence for me to consider during
3 sentencing, then you need to be placed under oath.

4 THE DEFENDANT: Oh, okay. Can I ask what currently
5 is the idea of what I would be sentenced to?

6 THE COURT: No. My idea, what I am thinking about
7 sentencing you to, is that what you are asking?

8 THE DEFENDANT: You or the State, whoever is in
9 charge of sentencing me.

10 THE COURT: No, they will let you know during
11 argument. During argument, you would argue for what you
12 think your sentence should be. You -- they would argue
13 for what they think the sentence would be. And then I
14 would come back to you and ask you, you have heard,
15 you have heard what their argument is, do you have
16 anything that you want to say in rebuttal to their
17 argument? And then you'd be able to make the final
18 argument. So I would do that. I mean, they are going to
19 tell you what they think. I will not tell you what I
20 think until, until I make a decision at the end.

21 THE DEFENDANT: Okay. I believe my sentence
22 should -- this is, that's a tough situation right now.
23 I would like to go home. I became a certified paralegal
24 since I have been in -- but that is testimony, or is it
25 not?

1 THE COURT: That is testimony. Because you want me
2 to consider, in sort of a mitigation factor, you, you are
3 trying to present mitigation as to why you shouldn't have
4 a long sentence, or why you should go home. So that
5 is testimony.

6 THE DEFENDANT: But a lawyer does the same thing.

7 THE COURT: What is that?

8 THE DEFENDANT: Wouldn't my lawyer do mitigating
9 circumstances, like for downward departures and things
10 like that?

11 THE COURT: They would try their best to present
12 mitigation. But you don't have an attorney, that is you.

13 THE DEFENDANT: So I am, I am my attorney.

14 THE COURT: If they wanted me to consider
15 mitigation, they would call you to the stand and say, I
16 would place you under oath, and they would say, sir, what
17 classes have you taken during Department -- when you have
18 been in the Department of Corrections? And then you
19 could say, oh, I have become a certified blah, blah,
20 blah. And then they would say, what, I don't even know,
21 what, what other, what other factors have you taken, or
22 what other steps have you taken since you have been
23 incarcerated that will help the community? Or I don't
24 know how they would ask it. But that is all testimony.

25 And then at the end, the attorney would argue to

1 me, Judge, you, there is evidence in the record that this
2 de novo sentencing, we would ask you to consider the
3 testimony of my Defendant, that he has gone to AA a bunch
4 of times. He has done all these things. Because now
5 that is record evidence, not just argument. They are
6 pointing to places in the record that would mitigate your
7 sentence.

8 THE DEFENDANT: So the only thing I can literally
9 do is pick a number?

10 THE COURT: Pick a number?

11 THE DEFENDANT: Of what my sentence should be.
12 Because I can't explain why I want it that way, without
13 swearing in.

14 THE COURT: You can explain it, but I am saying
15 there's no record evidence of it. If you sit there and
16 say, my, I think my sentence should be credit time
17 served, because I have been a paralegal at the jail or
18 the prison. I have no evidence that you were the
19 paralegal of the, at the jail, and so.

20 THE DEFENDANT: I am paralegal through Blackstone
21 Career Institute, not the jail.

22 THE COURT: One thing I wouldn't do is take my
23 hypotheticals and turn them on me when I am trying to
24 give you advice --

25 THE DEFENDANT: Oh no, no. I am just, I am just

1 trying to explain.

2 THE COURT: -- when I am giving you -- I shouldn't
3 be giving you advice on how to present your case, because
4 that is why you wanted to represent yourself pro se. But
5 then to give you advice and have you turn it on me like I
6 was incorrect in my advice, probably isn't beneficial to
7 your case. But I understand. It is still not evidence.
8 I don't care if you are a paralegal from the Inns of
9 Court in England, it is not evidence because you haven't
10 presented it, you haven't given me sworn testimony of
11 what you have accomplished, or what you are trying to
12 rely on.

13 THE DEFENDANT: Okay.

14 THE COURT: Is there a reason, are you trying to
15 avoid being sworn, because this would be very clear if
16 you would just raise your right hand and swear, you could
17 say whatever you wanted if you are swearing to tell the
18 truth. Like is there an issue that you don't want to do
19 that? Because that's -- right.

20 THE DEFENDANT: I am afraid to -- I put my hand up
21 to --

22 THE COURT: If you don't want to be sworn in, if
23 you want me to believe that you are trying to like
24 portray something against the fraud on the Court, because
25 you don't want to be sworn in. But if you want to be

1 sworn in, you can say whatever you want.

2 THE DEFENDANT: I raised my hand before and you
3 kept going, sir.

4 THE COURT: Okay. Do you swear or affirm the
5 testimony you are about to give in this matter will be
6 the truth, the whole truth, and nothing but the truth?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Okay. Go ahead and present whatever
9 you would like.

10 THE DEFENDANT: Oh, okay. Thank you. That was
11 easy.

12 Okay. For the last eighteen years, and, you know,
13 I know I got in trouble in prison when I got there,
14 because I didn't feel like I was supposed to be there.
15 Okay. But as time goes, you know, you learn, you grow.
16 Talk to my kids. They are like, hey, we want you to come
17 home, yada, yada, yada.

18 So I started studying law, because that is what put
19 me in there, not knowing the law. Okay. Did the law
20 clerk thing, and then became a certified paralegal in
21 2023.

22 But during that time, you know, sending people home
23 and reading different cases and yada yada yada, because I
24 was helping people, you know, in prisons, different
25 prisons, finding things that was wrong, yada, yada, yada,

1 stuff like that.

2 But when I became paralegal, it was like a
3 different world in my brain, because now it is like I
4 learned all of these different forms of law, even though
5 they want you to special -- specialize in just one. But
6 I didn't do that. I just continued to study them all.
7 Not very useful sometimes, but they definitely change
8 your mannerisms in life, and how you understand and
9 function through things.

10 Eighteen years, I haven't gotten in trouble since,
11 like, I don't even know how long ago. Sending me back
12 into that environment is really a waste, because I
13 actually learned things, and I don't get in trouble. And
14 I am ready to be with my family and take care of them and
15 show them the right ways. I raised them over a phone in
16 prison. You know what I mean, for all these years.
17 Which is not nobody's fault, but my own, for being a man
18 in my own shoes, put myself in a position where I should
19 never be. But I have learned this.

20 And to keep learning and learning and learning and
21 getting nothing forward is a, you know, I am just trying.

22 And I recommend, well, I am asking for either time
23 served. I did over, I did eighteen years. I still, I
24 have like three, four years of gain time or whatever, but
25 I max out in twelve more years. It's almost useless.

1 What rehabilitation, what more do I have to learn to be
2 rehabilitated?

3 THE COURT: Well, let me ask you a question.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: So you kind of threw in there the part
6 like your recommendation, which is more of your legal
7 argument or more of your attorney type of argument. But
8 all of those things that you just said are since the
9 conviction, and so this is a de novo sentencing, meaning
10 going back to the beginning, redoing it. Why, why should
11 I consider what you have done since? How does that
12 factor into a de novo sentencing?

13 I mean, you got sentenced for whatever crime you
14 were convicted of, and now you are just telling me about
15 all the good things you have done since then, since
16 you have been in prison. So how should I factor that,
17 that stuff in? I mean, it is not like a parole board,
18 it is not like I am making a decision, yeah, that
19 sentence was -- that that sentence was incorrect at the
20 time, or illegal at the time, because of these reasons.
21 Or the judge, I think you said Johnston, Judge Johnston
22 should have exercised his discretion, because at the time
23 this, this, and this was available. Do you know what I
24 mean?

25 We can't go back to redo the sentencing, but then

1 put the factors in of what you have done after the
2 sentencing. How do you, how do you weigh that or how do
3 you explain that?

4 THE DEFENDANT: If we go back, I was charged as
5 principal, which means I didn't commit the crime, I'm
6 principal to the person who did commit the crime. So if
7 you wanted to go back to that point, then sentence me
8 according to my participation in the crime, which I
9 didn't have any.

10 Even the victim got on the stand and said he didn't
11 see me, at testimony at my trial. If you want to go back
12 to that point, I didn't -- I wasn't there. I was
13 principle to this guy going and doing, committing a
14 crime, however it went down.

15 THE COURT: But Judge Johnston didn't exercise his
16 discretion, and I am sure he knew that, right? Did he
17 preside over the --

18 THE DEFENDANT: He, at recent incident, he asked
19 the State how did this occur? They identified, oh, had
20 we charged him as, not as principal, we could have. So
21 he didn't know how I was being charged, because that
22 Statute for principle is not on my charging document. It
23 just shows me and a codefendant, me and the other dude,
24 or whatever his name is. So my participation was the
25 actual minimum, because I was not the actual perpetrator,

1 if you want to go back to that point.

2 THE COURT: Well, who sentenced, who originally
3 presided over the trial?

4 THE DEFENDANT: Johnston, sir.

5 THE COURT: Oh, same judge?

6 THE DEFENDANT: Same judge.

7 THE COURT: He presided over the trial. Sentenced
8 you to life in prison. And came back and he had to
9 resentence you because of the actual possession?

10 THE DEFENDANT: Correct.

11 THE COURT: Of the firearm, correct?

12 THE DEFENDANT: Correct.

13 THE COURT: But my, my point to that is, is he knew
14 all, he knew the facts. I mean, he presided over the
15 trial, he presided. So he knew if you were the
16 principal, if you weren't, and decided not to exercise
17 his discretion and sentence you as an habitual violent
18 felony offender.

19 THE DEFENDANT: Which --

20 THE COURT: So why would I, why would I not? If he
21 had the same set of facts, or if he had the same facts?
22 I mean, you have got to, you have got to understand that
23 when we all do trials, and I sit here and I hear the
24 testimony, and I -- it is getting presented to the
25 jurors, I mean, I purposely try to make myself as not

1 knowledgeable about the facts of a case, because I like
2 to hear how it is presented, so I can make decisions
3 about if it is, if it is right or not, if that should be
4 presented to a jury.

5 So what I am saying is that Johnston heard the case
6 and heard the facts and, and I haven't. I mean, I have
7 read the transcripts a little bit from both the
8 resentencing and whatnot. But ultimately he decided that
9 he -- that you deserve to be sentenced as a habitual
10 violent felony offender.

11 And I guess I'm trying in my mind, and want you to
12 explain to me why I shouldn't do the same thing? What is
13 different about what he did and what I need to do? Why
14 would I exercise my discretion, when he did not?

15 THE DEFENDANT: Because at that time, he didn't
16 know he had discretion. And we objected to it, because I
17 don't qualify as a habitual violent felony offender,
18 because my New York offense is specifically classified as
19 a nonviolent offense, Class D felony. To be habitual,
20 means to repeat. Violent requires a certain amount of
21 force. New York's offense does not require force or an
22 attempt of force at all. So I wouldn't qualify anyway.

23 But he thought, like you just stated previous in
24 the record, that you thought you didn't, you didn't have
25 discretion, because of the word may and shall, yada,

1 yada, yada, as you stated. However, he didn't make that
2 clarification, so he didn't exercise discretion because
3 he didn't think he had it.

4 THE COURT: How do you know that? How do you know
5 that he didn't know if he had discretion or not?

6 THE DEFENDANT: Because, I mean --

7 THE COURT: Because everybody was wrong at your
8 sentencing at one point, right? You have the State
9 stipulating that, that the maximum sentence is thirty
10 years, which is not correct, it is life. And you have
11 the State stipulating that it was a ten year, and that is
12 not correct, it is fifteen years.

13 I mean, so how do you know that Judge Johnston
14 didn't know he was, could exercise his discretion, that
15 he didn't have to sentence you as a habitual violent
16 felony offender?

17 I understand your point that you believe that he is
18 wrong about making you a habitual violent felony
19 offender, but we are past that. If he was wrong or not,
20 that will maybe be determined later. It has been held by
21 the appeal courts that he wasn't wrong, but, at this
22 point.

23 You have appealed, you have appealed the finding of
24 habitual violent felony offender in the past, and the
25 Appellate Courts have upheld that finding.

1 And so if this new line of cases, or the new case
2 of Erlinger, the other cases aren't new line of cases.
3 But if, if that law changes, that will go back to that.

4 But as far as once he found you a habitual violent
5 felony offender, what evidence do you have that he didn't
6 think that he had discretion to sentence you?

7 THE DEFENDANT: Because my lawyer objected to it,
8 because I don't qualify. And he --

9 THE COURT: So he would know that he had
10 discretion. He just chose not to use it and sentenced
11 you to --

12 THE DEFENDANT: Oh, no, he felt he didn't have
13 discretion. That he had to give it to me.

14 THE COURT: How do you know that?

15 THE DEFENDANT: Resentencing transcripts.

16 THE COURT: Does it say that in there? I want you
17 to point them out to me. If you believe that it says in
18 there that Judge, Judge Johnston said in the transcript
19 at some point, I don't believe I have discretion, and I
20 am going to sentence you to the maximum, because I have
21 no discretion, do you believe that it says that in the
22 sentencing transcripts?

23 THE DEFENDANT: I believe that he identified and
24 indicated that he does not have discretion, yes, Your
25 Honor.

1 THE COURT: Okay. Can -- do you have the
2 transcripts?

3 THE DEFENDANT: Every time I -- like I told you
4 last time I was here, my mail, the jail is not giving it
5 to me. They are sending it all back. And you said, do I
6 have to send them a letter? And I said, yes. And they
7 just did it again. And I put multiple requests in there.
8 I have the serial -- the reference numbers. They are not
9 giving me my mail. They keep saying, if it is not from a
10 lawyer or a law firm, they are not giving me my mail.

11 So how do I get exhibits?

12 THE COURT: When do you think that he said that?
13 If you haven't seen it, I am not sure how you know that
14 it is in there. But where do you think he said that? At
15 the resentencing?

16 THE DEFENDANT: Correct.

17 THE COURT: At the resentencing, you believe he
18 said that he didn't have discretion?

19 THE DEFENDANT: Yes. Well, I believe that he said,
20 he indicated he does not have a choice, which is the same
21 thing. It's equivalent.

22 THE COURT: I could disagree with that.

23 THE DEFENDANT: Not a choice, no discretion.

24 THE COURT: I would say, based on the facts of this
25 case, I believe I have no choice but to sentence you to

1 as a habitual violent felony offender has nothing to do
 2 with my discretion or not. It could be me telling you
 3 that, based on the facts of this case and what I have
 4 heard so far, I find that I have no choice but to find
 5 that you are habitual violent felony offender. It
 6 doesn't mean that I'm not recognizing that I could
 7 exercise my discretion. But, I mean, I have the
 8 transcript. I will just go through it real quick.

9 THE DEFENDANT: Thank you.

10 THE COURT: Since you don't have it.

11 THE DEFENDANT: Yeah, that would be good.

12 THE COURT: Since you don't have it to show me.

13 THE DEFENDANT: No violent charges, still habitual.
 14 It is crazy.

15 THE COURT: All right. I am going to read this.
 16 Did you need something?

17 THE DEFENDANT: I just asked what time it was,
 18 sir.

19 THE COURT: Oh. I am going to read this out loud,
 20 since you don't have it, and it is not that long, and I
 21 am reading it to myself. So I will just read it as
 22 part -- this is the transcript of proceeding, sentencing,
 23 March 12th of 2009. Is that where you believe it is at?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay.

1 The Court: I received a memorandum from the staff
2 attorney on this. Make sure that she is on the same page
3 that everybody else is. She recommends that we have a
4 calendar call, and at that point we can then determine
5 the need whether to schedule a resentencing or not, and I
6 must rule on the motion no later than sixty days from the
7 filing of the motion.

8 However, if both sides agree that we do it all at
9 one time, I assume we can accomplish that, but I don't
10 know what -- I don't want that to fly in the face of her
11 recommendation and what the law is. So maybe you can
12 help me through this.

13 Judge, I -- Mr. Konieczka: Judge, I believe the
14 reason, and I researched the issue, and I believe the
15 current state of the law is that since he is charged with
16 home invasion robbery, it was reclassified to a life
17 felony, and since the jury did not make a specific
18 finding that he actually possessed a firearm, the case
19 law, as I understand it now is, and I apologize I didn't
20 know it then, is that because I argued as a principle to
21 it, he had been charged with robbery with a firearm
22 punishable by life, you could have give -- you could have
23 gave him life, but the State chose to file it as a home
24 invasion robbery, since he was not found to actually
25 possess the firearm. The law is that the maximum the

1 Court can impose is a thirty year sentence, and I agree
2 with that.

3 So I believe we do have to have resentencing, and
4 the State is prepared to go ahead today. I believe Mr.
5 Deratany is going to agree that the habitual felony
6 offender predicate that was laid before is still
7 appropriate, with the ten year minimum mandatory, and the
8 State is just going to ask you to take judicial notice of
9 all the testimony from the victims you heard, and ask you
10 to sentence him to the thirty years, based on all the
11 testimony and the evidence.

12 The Court: Of that thirty years, sorry I don't
13 have, is, dot dot. Let me read that again. Of that
14 thirty years, sorry, I don't have, it is just the one
15 count?

16 Yes, sir.

17 So of that thirty year sentence, is from the
18 State's point of view, it would be a ten year mandatory
19 minimum within the thirty years?

20 Correct. As a, I believe it's a violent, habitual
21 felony offender.

22 The Court says, violent.

23 Mr. Konieczka says, habitual felony offender.

24 The Court: Habitual felony offender.

25 Mr. Konieczka: And I believe you signed an order

1 last time for us, and I would ask you just to incorporate
2 that same order that is in the file.

3 The Court: All right. Anything from your point of
4 view?

5 Mr. Deratany: Is this before we get to the
6 sentencing hearing?

7 The Court: I'm not sure.

8 Mr. Deratany: Let me address the first part first.

9 The Court: All right.

10 Mr. Deratany: And only for clarification purposes,
11 because I am assuming that after you correct the
12 sentence, the appeal is still going to go forward. This
13 was just done, from what I understand from the Public
14 Defender's Office in Daytona, to correct this first, then
15 they are going to review the trial. I want to be clear,
16 because I wasn't at the original sentencing hearing.
17 They specifically found, they checked the box that he
18 did not possess a firearm. It wasn't that they didn't
19 make a finding of that he possessed it, but they actually
20 affirmatively determined that he didn't possess a firearm
21 in the case.

22 And I'm in agreement with Mr. Konieczka, we
23 stipulated to this, you know, that the maximum sentence
24 that he could receive is thirty years versus life in
25 prison. And, of course, I still want to make a few

1 arguments regarding what I believe the sentence should
2 be, especially in light of the fact that you heard the
3 codefendant's trial in this case. And I do stipulate
4 that everything else is still accurate.

5 The Court: Go ahead, if you want to go ahead and
6 pull that into the argument for some lesser sentence. I
7 am happy to.

8 I understand, Judge. That in all likelihood,
9 you are going to sentence Mr. Goodman to thirty years in
10 prison. And quite frankly, it's a relief off of my mind
11 that we have agreed, because Mr. Goodman, out of the nine
12 thousand plus criminal cases that I have handled, is the
13 only client I have ever had to be sentenced to life. And
14 this case kind of troubled me, given the facts, but it
15 certainly was at the time that -- it certainly was at the
16 time what we believed to be a legal sentence. And I
17 appreciate all of your -- you listened to him and me at
18 sentencing, but I think now that you have seen Mr.
19 Philpot's jury trial, I think it becomes more evident, it
20 should become more evident to the Court that Mr. Philpot,
21 was the person that broke into house with the padded
22 firearm, committed the crime. You know he was, you know,
23 the leader. That Mr. Goodman, while I am certainly not
24 minimizing his participation in the crime, was more of a
25 go along. And he cooperated with law enforcement. He

1 fully confessed. He took them to where the gun was.

2 And, of course, the troubling aspect of this is
3 that he didn't take the plea offer initially in the case,
4 and that shouldn't be held against him. But I believe
5 that because he does have a prior, he qualifies as
6 habitual violent felony offender, only because he only
7 has one prior. It just so happens that prior is a
8 robbery charge.

9 So when you take into consideration the fact that
10 while he does only have one prior offense, which he
11 didn't go to prison for, all he got was probation, which
12 he successfully completed, it is still at thirty years,
13 despite the great trauma that the victim went through in
14 this case, is still seems a tad steep.

15 And, of course, I respect whatever the Court does,
16 but I would request that the Court sentence Mr. Goodman
17 to ten years in prison. I am sorry, yes, ten years in
18 prison, the minimum mandatory for HVFO.

19 The Court: Mr. Goodman, is there anything you want
20 to share with me before I impose sentence?

21 No, sir.

22 The Court: There is no legal reason why sentence
23 should not be imposed?

24 Mr. Deratany: No.

25 I would propose and adjudicate him guilty of the

1 offense, sentence him to thirty years in the Department
2 of Corrections, with credit for any time served as a
3 violent habitual felony, felony offender, with a ten year
4 minimum mandatory sentence, concurrent within that thirty
5 years. Incorporate the previously signed orders with
6 respect to the, this particular case into the final
7 judgment. Anything else I need to articulate?

8 Mr. Konieczka: No, Judge. I think that covers it.

9 The Court: You have thirty days to appeal my
10 judgment and sentence. I will appoint the Public
11 Defender's office to represent you for the purpose of the
12 appeal, not only on this sentence, but also on the
13 continuing appeal that you have on the trial itself.

14 Mr. Deratany: Yes, I am not going to be filing a
15 notice, I am not going to be filing a new notice of
16 appeal. I think we got leave to file. I think we got
17 leave to file.

18 The Court: Right.

19 Mr. Konieczka: The original appeal is still
20 pending.

21 Mr. Deratany: Very good.

22 That was the resentencing transcript. So why do
23 you think that I should exercise my discretion when the
24 trial judge did not feel he should exercise his
25 discretion?

1 THE DEFENDANT: Because I am not the same person
2 that, and even in that time period, I didn't even do the
3 crime, and I've been jammed for eighteen years. I know
4 that doesn't -- different shoes. But that is all I have.
5 I am -- this doesn't balance.

6 THE COURT: All right. The State.

7 MS. COLON: Yes, Your Honor.

8 THE COURT: Do you have anything you would like to
9 present for sentencing?

10 MS. COLON: As far as testimony, no. We did try to
11 contact the victim. It has been several years, but we
12 were not able to. But I did see that they gave the
13 victim impact statement at the time of the original
14 sentencing. And so I don't know if the Court has -- I
15 know the Court has mentioned previously that he reviewed
16 transcripts, so I don't know if the Court specifically
17 recalls of the impact statement given by Mr. Thibeau. I
18 don't know if that is how you pronounce it.

19 THE COURT: Before you go into argument, though.

20 MS. COLON: Yes, Your Honor.

21 THE COURT: Let's just finish the evidence
22 portion. You have a number of exhibits. We have said
23 some of them you were going to introduce, during, if we
24 did a habitual violent felony offender portion.

25 So A is the Information in this case, certified

1 from the court file. Do you have any objection to A
2 coming into evidence?

3 THE DEFENDANT: No. No, sir.

4 THE COURT: Have we done State One yet? This is
5 the first State. A will be One.

6 State's notice of intent to seek habitual violent
7 felony offender penalties is State's B, and it appears to
8 be out of the court file because it has a barcode here.
9 Any objection to B?

10 THE DEFENDANT: No, sir.

11 THE COURT: Okay. Where is C. C is a copy of the
12 fingerprints. I am going to leave C as Exhibit,
13 proffered exhibit, because that deals directly with
14 the --

15 MS. COLON: The HVFO. And if I could just clarify,
16 just that way the record is clear. Because when I was
17 marking them prior to our hearing, I was asking, or I was
18 explaining to the Clerk, trying to get some guidance on
19 maybe how they should be marked, because that fingerprint
20 card actually belongs to the certified records of a prior
21 arrest. I forget exactly what the document is titled,
22 but.

23 THE COURT: D.

24 MS. COLON: It is a bigger pocket. D, I think D is
25 just one page.

1 THE COURT: No.

2 MS. COLON: No. Okay.

3 THE COURT: D is the New York, and it has got his
4 picture and --

5 MS. COLON: Yes.

6 THE COURT: And all of that.

7 MS. COLON: So that, those fingerprints originally
8 came with that to -- but when we sent it to comparison to
9 BCSO we only sent the fingerprint card. So we separated
10 them because of that, but they are together.

11 THE COURT: I am changing my mind on this. I am
12 going to give you all this evidence back.

13 MS. COLON: Okay.

14 THE COURT: That has to do with the fingerprints
15 and -- because we are not having, we are -- any appellate
16 review of that subject matter is going to be as should we
17 have had the hearing or not?

18 MS. COLON: Uh-huh.

19 THE COURT: Not what you would have presented if
20 you had the hearing.

21 MS. COLON: Right.

22 THE COURT: My ruling leaves it up to the Appellate
23 Court to tell us, basically, if I am correct about the
24 fact that there was already a finding of habitual violent
25 felony offender, and it has, I -- it is a separate

1 hearing according to the Statute. That is my finding,
2 that it is a separate Statute. The Statute makes that a
3 separate hearing, separate from the sentencing.

4 We are doing the sentencing based on exercising
5 discretion. So it almost makes it more confusing to have
6 evidence about the fact if he is habitual violent felony
7 offender or not, it makes it more confusing, because we
8 didn't have that hearing. And that evidence would
9 have -- it is not like you are proffering it.

10 MS. COLON: Right.

11 THE COURT: Because I am not having the hearing.

12 MS. COLON: Yes, I understand.

13 THE COURT: And so the decision that the Appellate
14 Court would, if, if they Are asked to, the decision would
15 be, yes, the Court should have had a habitual violent
16 felony offender hearing to determine if he was a habitual
17 violent felony offender or, no, the lower court was
18 correct that, that finding had been made, and for the
19 purposes of the resentencing, that finding didn't need to
20 be made again.

21 Which then intersects with the new issue, as if, if
22 these cases are going to, if the cases, the new case,
23 Erlinger, and the other cases apply retroactively. So
24 let me just sort that out.

25 I will continue with that. So G would have been

1 for that. F is the Queen's Supreme -- that is, that
2 would have been for habitual violent. That is the one
3 page.

4 MS. COLON: Yes, Your Honor, that would have been.
5 Correct.

6 THE COURT: D is what we just talked about from New
7 York.

8 MS. COLON: Yes, Your Honor.

9 THE COURT: That would have been. E is the
10 presentence investigation. What else have you got down
11 there?

12 I mean One and Two is what we just talked about,
13 which are just the documents out of the court file.

14 MS. COLON: Yeah, the Information.

15 THE COURT: It's just the Information and the
16 notice of a habitual. So A and B are staying marked as
17 One and Two into evidence.

18 MS. COLON: Okay.

19 THE COURT: C, D, F, and G are going to be returned
20 to the State, as they apply for the habitual violent
21 felony offender hearing, if there was one. If you just
22 want to set it up there so I don't get them confused.

23 And then E is the presentence investigation that
24 you originally asked me to consider, that is in the court
25 file. Do you want it into evidence? The presentence

1 investigation?

2 MS. COLON: No, I, I included it for the HVFO
3 portion of it, because there is a part of the order that
4 says having considered that, and so I just included that
5 in case it was needed.

6 THE COURT: Okay. So this is in the court file.
7 It doesn't need to be introduced into evidence. The
8 presentence investigation, it is Document 252 in our
9 court file. If anyone -- yeah, those all can go back to
10 the State. And we will keep just the Information and
11 the --

12 All right. Now that we got any evidence that you
13 wish presented. Is there anything else you need to do
14 prior to argument?

15 MS. COLON: Arguments. I just, just replying to
16 one thing that Mr. Goodman said, as far as that he wasn't
17 charged as principal in the Information. I know
18 typically our office files a separate response to
19 discovery, and it has that principal language in there.
20 And so I just, I went through the court file to see if
21 that was done. I don't know if it makes much of a
22 difference, but it was mentioned that it wasn't in the
23 Information, and so we did file a response of demand for
24 discovery on August 7th of 2007, and there is language in
25 there, under Section (5)(d), the statement of

1 particulars, it says that he is charged as principal in
2 the first degree, as defined by 777.011. So other than
3 argument, I just wanted to mention that.

4 THE COURT: Just one sec. Just one sec.

5 Mr. Goodman, I know what I am hearing from her
6 probably doesn't change your argument that it is not in
7 the Information, because it either is in the Information
8 or not. Do you know what she is referring to?

9 THE DEFENDANT: I have never seen the discovery for
10 myself, sir.

11 THE COURT: Okay. Well, she is discovering to
12 what is in the court file, filed August 7th of 2007.
13 Specifically it says the State furnishes the following.
14 Oh, yeah. The State furnishes the following particulars.
15 It is, it says (5)(a). As specifically as is known to
16 the State, the offense was committed by the Defendant,
17 Larry Donell Goodman. B, the crimes charged occurred
18 on or within twenty-four hours either side of May 18th of
19 2007. (C), the place of the crimes charged was in
20 Brevard County, Florida. D, the defendant is charged as
21 a principal in the first degree, as defined by Section
22 777.011 of the Florida Statutes. That is what she is
23 referring to.

24 Yes, ma'am.

25 MS. COLON: Other than argument, that was all I

1 just wanted to reply to.

2 THE COURT: Well, I think Mr. Goodman has pretty
3 much made most of his argument, so if you want to --

4 MS. COLON: Yes, Your Honor.

5 THE COURT: -- argue.

6 MS. COLON: So, again, we did try to reach out to
7 the victim, just to give them an opportunity if they
8 wanted to give another impact statement. We were unable
9 to. But I did review their impact statement that they
10 provided to the Court at the initial sentencing, after
11 the jury came back. And at that point, I know we are
12 here for resentencing, but I just wanted to go back to
13 what he was originally sentenced to after trial, which
14 was life in prison. And that is what the victim was
15 asking for.

16 And then he was resentenced in 2009, and at that
17 point, the State, while they were incorrect in what the
18 maximum was given his HVFO, maximum is life with the
19 fifteen year min man. The State believed that it was
20 thirty with a ten year min man, that was the maximum.
21 And so that is what they argued for. And ultimately,
22 that is what the Judge gave Mr. Goodman, was what
23 everyone believed to be the maximum sentence. And so it
24 seems at all points of his sentencing he was given the
25 maximum.

1 And at this point, we are here on a de novo
2 resentencing. Given 775.048, point 048, (4)(b), the
3 Statute says for a first, a life felony or felony of the
4 first degree, which is what is listed on the judgment and
5 sentence, that when he was resentence in 2009 was a
6 lesser included offense, home invasion, robbery, no
7 firearm or other weapon, a first degree felony, per the
8 Statute, the maximum is life with a fifteen year min man.
9 And so that is what the State is asking for.

10 THE COURT: Today?

11 MS. COLON: Today, yes, Your Honor.

12 THE COURT: You want me to send some to life?

13 MS. COLON: With a fifteen year min man. And
14 again, going back to at every point that he was
15 sentenced, both the State and the Court gave him the
16 maximum sentence at that point, based on the facts of the
17 case, the victim input. There was some mention that
18 there was a -- some lengthy confession where he discussed
19 that this was pre-planned and that they were canvassing
20 the area. And so this was a pre-planned sort of
21 scenario.

22 And, again, given that at every point, the State
23 and the Court both felt that the facts of the case
24 warranted a maximum sentence, and that is what he got at
25 every point. That is what the State is asking for at

1 this point.

2 THE COURT: You think I can do that? I mean, do
3 you think I can --

4 MS. COLON: The State is asking for the maximum.

5 THE COURT: No, I know, but.

6 MS. COLON: And we are here on a de novo
7 sentencing. And that is the risk with a de novo
8 sentencing, is the Court could sentence into something
9 else, if the Court, you know, in its discretion.

10 THE COURT: I think I have said that.

11 MS. COLON: Correct. But he is also --

12 THE COURT: I think, I think I said that to you,
13 sir. So this is something you re going to have to rebut,
14 because I remember at some point, either when you had an
15 attorney or not, cautioning everybody that this could be
16 the point that we get to, where it is kind of be careful
17 what you ask for, because this could be a legal sentence
18 to sentence you up to life in prison.

19 And so I don't know if you are prepared to rebut
20 it, but you don't think it's a double jeopardy issue,
21 because it's a double -- because it is a de novo
22 resentencing?

23 MS. COLON: That, that is my understanding, yes.
24 Because of the de novo resentencing. The Court has
25 already ruled that he is HVFO. The maximum --

1 THE COURT: The Court, meaning the prior Court?

2 MS. COLON: Correct. That, that -- and that went
3 on appeal. That they found that, you know, that is a --
4 that is valid, he is HVFO. And per the Statute, it is
5 for a first degree felony or a life felony. It is life
6 with a fifteen year min man.

7 THE COURT: Yeah. Do you have any cases that -- I
8 mean, I don't even know if there are. Is there a case
9 that says that a Court --

10 MS. COLON: Can increase?

11 THE COURT: -- can do that? Yeah, can increase
12 the sentence?

13 MS. COLON: I haven't looked at that, specifically,
14 so I don't know.

15 THE COURT: I mean, to make it a legal sentence,
16 you have to increase it.

17 MS. COLON: Correct.

18 THE COURT: On some level.

19 MS. COLON: Correct. Because the minimum mandatory
20 is fifteen, not ten.

21 THE COURT: Right.

22 MS. COLON: So at some point he was going to get an
23 increased sentence. At least for the minimum mandatory,
24 I think he is probably even more than -- or I am not
25 going to do math on the fly. I am not as good as

1 Mr. Doyle. But at some point it was going to get
2 increased, because that was not correct. It wasn't a ten
3 year minimum mandatory, it was a fifteen year minimum.

4 THE COURT: When Johnston sentenced him to life,
5 was that discretionary at all? Meaning if, if he was
6 found guilty of possession of a firearm, actual
7 possession of a firearm, so the robbery was, would be
8 reclassified as actual possession of a firearm, and HVFO,
9 at, at that point, is it a mandatory?

10 MS. COLON: So I only, like the Court, I'm sure,
11 knows and has, had at is disposal, too, I only have the
12 transcripts.

13 THE COURT: Yeah.

14 MS. COLON: And so the transcripts, he just says
15 that, yes, he is HVFO, and he is going to sentence him to
16 life. I don't even think that there, if I remember
17 correctly, there was mention about correctly, there was
18 mention about any sort of minimum mandatory, as part of
19 the sentencing the first time around. It was just life
20 in prison.

21 And then it wasn't until the second sentencing
22 where they started discussing the minimum mandatories.
23 At least that is what I remember. I can pull it up, but
24 I know I have gone through it and read it, and I just
25 remember seeing in the first one in 2008, he was

1 sentenced to life in prison.

2 THE COURT: Oh, maybe I am thinking PRR. I mean,
3 we just did one, right?

4 MS. COLON: Right.

5 THE COURT: We just had a robbery, but that person
6 was PRR.

7 MS. COLON: Correct.

8 THE COURT: Robbery with a firearm, and PRR means
9 you go for life.

10 MS. COLON: Correct. That is mandatory life. Here
11 the maximum is life, with a fifteen year min man.

12 THE COURT: Right. All right. Anything else?

13 MS. COLON: No, Your Honor.

14 THE COURT: Yes, sir.

15 THE DEFENDANT: As you just mentioned, my original
16 sentence, they gave me life. My offense on all those
17 papers that you just pulled out and put in evidence, my
18 charging information says F dash life. So you wouldn't
19 have been able to give me the enhancements for a life
20 felony, because it was life. But to give the ten,
21 twenty, life, and the habitual violent felony offender
22 was illegal at the same time, because they have to offset
23 each other. They can't be the same penalty. And they
24 did give me the ten mandatory when they gave me a natural
25 life the first time. And once I began serving a legal

1 sentence, I cannot be increased without double jeopardy,
2 like you identified.

3 That is, when we had the status hearing, that is
4 what those cases stated in the rehearing. There was
5 multiple cases on there that identified this cannot
6 happen without like JQC implications, because --

7 THE COURT: JQC?

8 THE DEFENDANT: JQC. No, because any attempt to
9 increase a sentence after somebody already started
10 raising, or serving it, is unlawful. It is
11 unconstitutional, and it is illegal.

12 However, apparently this is what you are going to
13 do. Or that is what she is asking for. So I just
14 wanted to put on the record I object to it, and notify
15 the laws and rules and Constitutional violations of it,
16 so you can make a willful decision.

17 THE COURT: How do you, how do you, like I said, to
18 Ms. Colon, though, how do you, to make your illegal
19 sentence legal, I have -- well, I don't have to increase
20 it.

21 THE DEFENDANT: You have discretion.

22 THE COURT: I could use my discretion.

23 THE DEFENDANT: Yes. You could take off the --

24 THE COURT: If I don't use my discretion, you have
25 to be sentenced to fifteen years, which is more than the

1 ten years.

2 THE DEFENDANT: If you don't use what you should
3 use, then you could just literally take off the habitual
4 and leave it at thirty years. That would negate the
5 fifteen, ten problem, and I still got the same amount of
6 years left in prison.

7 THE COURT: I could do that.

8 THE DEFENDANT: Exactly.

9 THE COURT: But you are saying if, you are saying
10 that is basically my only option.

11 THE DEFENDANT: No, you can let me go home. That
12 is more options. You can always think down, instead of
13 trying to put me back in prison.

14 THE COURT: Yeah, but I could go to life.

15 THE DEFENDANT: I know, but I would win on appeal,
16 sir. We know this already. Why do we have to go through
17 these extra steps?

18 THE COURT: That is what I am saying to you. I
19 don't believe that you would win on appeal. You asked
20 for a new sentencing.

21 THE DEFENDANT: I understand.

22 THE COURT: I am giving you a new sentencing. And
23 the ramifications of a new sentencing is that the
24 habitual violent felony offender calls for something more
25 than thirty years, and a fifteen year minimum mandatory.

1 THE DEFENDANT: The habitual also calls for you
2 having a jury in here, but we ain't doing that either.

3 THE COURT: No, it does not call --

4 THE DEFENDANT: Please.

5 THE COURT: Okay. I am ready to impose sentence.

6 Sir, I am going to find that you, based on the
7 findings are a habitual violent felony offender. The
8 record is very clear that we did not have a hearing
9 today, based on the rulings that I made and the notices
10 in the file and the previous findings for the separate
11 hearing, finding you an habitual violent felony offender.

12 As for this de novo sentencing, I am going to
13 sentence you to -- I am not going to exercise my
14 discretion. I am seeing no reason to do that. I have
15 reviewed the transcripts. I have seen and heard from, or
16 I have read victim impact statements. I have read the
17 prior, the judge that heard the trials. It sounds like
18 both trials. I am not going to exercise my discretion.

19 I am going to sentence you as an habitual violent
20 felony offender. The sentence is thirty years and a day,
21 with a fifteen year minimum mandatory. That makes that
22 a legal habitual violent felony offender sentence.
23 Something over thirty years, with the fifteen year
24 minimum mandatory.

25 All other all, all the costs that were previously

1 ordered should be ordered.

2 MADAM CLERK: (Indiscernible).

3 THE COURT: Okay. They are telling me all the
4 costs were placed into a civil lien, so they will remain
5 in as a civil lien.

6 Oh, wait a minute. What about a Scoresheet?

7 MS. COLON: I have one printed, Your Honor.

8 THE COURT: Okay.

9 MS. COLON: I wasn't sure. I figured, because he
10 is being resentenced, we might need one for today.
11 Obviously, nothing has changed on the Scoresheet, but it
12 just has today's date, since he is being resentenced. So
13 I do have a copy for the Court.

14 And I wasn't sure if the Court needed another
15 order about the HVFO, but I printed that out, just in
16 case.

17 THE COURT: No, I don't want to confuse that.

18 MS. COLON: Okay.

19 THE COURT: Because I, the decision is that --

20 MS. COLON: Right.

21 THE COURT: -- I am not doing that, or I am not
22 making the finding myself. Another judge has done that.

23 Can you show him? I do plan on entering a
24 Scoresheet, because I think it is probably --

25 MS. COLON: Yes, sir.

1 THE COURT: -- necessary for the case. So can you
2 show Mr. Goodman the Scoresheet before you bring it up to
3 me?

4 MS. COLON: Yes, Your Honor.

5 THE COURT: You are saying this is the exact one,
6 or it should be the exact one that was used at the
7 original sentencing?

8 MS. COLON: I think it is. There is a difference,
9 though, and only because I'm not a fan of putting various
10 misdemeanors. And so I just, I put what the misdemeanors
11 were. He had two misdemeanors for possession of stolen
12 property, which are misdemeanors in New York, and then
13 one for possession of marijuana.

14 THE COURT: Is it a different format than the one
15 we are using today? Or was it still the same criminal
16 punishment Scoresheet? You know what, I mean, they had
17 different ones over the years.

18 MS. COLON: The one that was originally filed looks
19 like an older version, or maybe one that they didn't
20 stack it, because it kind of looks like the ones that
21 Mr. Doyle does, if you have ever seen some of his. But I
22 use the DOC website to do his Scoresheet.

23 THE COURT: All right. There is an August 4th,
24 2008 Scoresheet. Is that --

25 MS. COLON: By Ms. --

1 THE COURT: Stewart.

2 MS. COLON: -- Stewart, yes. So I copied that one.

3 THE COURT: Okay. And that, that is what I mean.

4 It's not one of the older ones where it was a range.

5 It's the same one with the formula, you know, they used
6 to have the ones that produced a range that you could be
7 into and --

8 MS. COLON: Yeah, no it is --

9 THE COURT: This is the same Scoresheet that we are
10 using today, under the same point system, with a formula
11 at the end that says 41.7 as the lowest permissible
12 prison sentence, 83.6 total sentencing points. Correct?

13 MS. COLON: Let me double-check. I don't know
14 the --

15 THE COURT: Yes. Is that what that says, sir,
16 83 point --

17 THE DEFENDANT: 83.6, sir. Yes, it does.

18 THE COURT: 41.7 as the lowest permissible prison
19 sentence.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay. Do you have any objection to
22 that Scoresheet?

23 THE DEFENDANT: I have a question.

24 THE COURT: Okay.

25 THE DEFENDANT: It says prior record, 812.13

1 (2) (c). My prior record is New York. I don't, we don't
2 have 812.13 (2) (c). We have 160.15, third degree felony,
3 not second degree. So how is this Statute on my prior
4 record, when I don't have a prior record in this state at
5 all, as my first offense.

6 THE COURT: All right. State?

7 MS. COLON: Your Honor, it is not just his record
8 from this State, it's from his criminal history. And so
9 we have the J and S from New York about the robbery. And
10 here it is, that is what is equivalent. That is what the
11 equivalent is here on the Scoresheet. And that is what
12 it was at the time of sentencing. Nothing has changed as
13 far as the points and, and what is on there.

14 THE COURT: Okay. So do you object to that
15 Scoresheet?

16 THE DEFENDANT: I object, because the New York
17 robbery is nonviolent, and this 812.13 requires violence.

18 THE COURT: Okay.

19 THE DEFENDANT: For the record.

20 THE COURT: Over your objection, I will accept the
21 Scoresheet.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And anything else that we need to take
24 care of, Ms. Colon?

25 MS. COLON: No, Your Honor.

1 THE COURT: Do you have anything else, sir, that
2 you would like to put on the record before we are done?

3 THE DEFENDANT: No, sir. That is about it.

4 THE COURT: Okay. I had temporarily suspended the
5 order that was entered in this case regarding pro se
6 filings, as I had allowed you to act as your own
7 attorney. Obviously I couldn't say that you couldn't
8 file anything while you are acting as your own attorney,
9 but I do plan on reinstating that order thirty days out
10 from today's date. And I am doing that because you have
11 thirty days to appeal an illegal sentence.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: If you can't afford an attorney, one
14 would be appointed to you for that purpose. But you have
15 operated pro se, so if you need to do those things, you
16 have thirty days in order to do those things. And then I
17 plan on submitting an order in September.

18 So based on that, you are free to step to your left
19 with the deputies. And good luck to you sir.

20 THE DEFENDANT: Thank you.

21 MS. COLON: Your Honor, may I approach the Clerk to
22 retrieve the documents?

23 THE COURT: Yes.

24 MADAM CLERK: (Indiscernible).

25 THE COURT: What's that?

1 MADAM CLERK: (Indiscernible).

2 THE COURT: Oh, that's true. We would have to say
3 credit. Before you guys start, Mr. Goodman, I have to
4 to, I have got to figure out how to announce credit. I
5 mean, I want you to get credit for what you have done,
6 but this was a resentencing, so I don't know if I can
7 just say all previous credit should be ordered or?

8 MS. COLON: You, I think the Court can say whatever
9 previous DOC credit he has, and then I don't know if the
10 number has gotten -- I always hear sometimes that they
11 lose gain time when they come here. And so whatever
12 credit he has once he was transported here and was in the
13 Brevard County Jail, and he would get credit for those
14 days, as well, I imagine. I just don't know how that
15 ends up calculating.

16 THE COURT: So you are saying like a VOP?

17 MS. COLON: Correct.

18 THE COURT: To say what the jail credit is that
19 he has been here in the Brevard County Jail, plus all
20 previously ordered jail credit.

21 MS. COLON: Correct.

22 THE COURT: Or all calculated prison credit.

23 Do you know what the how long he has been here?

24 MADAM CLERK: (Indiscernible).

25 THE COURT: Does that sound right, Mr. Goodman,

1 that you got here June 14th to the jail? So June 14th to
2 August 12th, he should be given credit for that time
3 served, plus jail -- prison credit.

4 All right. Thanks, sir.

5 MS. COLON: And that is the last thing on the
6 docket, Your Honor, so may I be excused?

7 THE COURT: Yep. Have a great evening. Thanks.

8 *****

9 (Digital Transcript Concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
)ss:
COUNTY OF BREVARD)

I, Marla J. Callahan, being a Professional Court Reporter and Notary Public, certify that I was authorized to and did transcribe the digitally recorded foregoing proceedings; that the Transcript is a true and correct record of the digitally recorded proceedings to the best of my ability.

I FURTHER CERTIFY that I am neither a relative nor an employee of counsel, nor any of the parties in said suit, and in nowise financially interested in the event of this cause.

Dated this 22nd day of October, 2025.



Marla J. Callahan, Reporter
Notary Public - State of Florida
My Commission Number FF 989632
Expires June 17, 2028