

IN THE SUPREME COURT OF FLORIDA

TYRONE WILLIAMS,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

CASE NO. SC16-785

L.T. CASE NO. 1D15-5716

RESPONDENT'S ANSWER BRIEF

ON REVIEW FROM THE FIRST DISTRICT COURT OF APPEAL

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## **PRELIMINARY STATEMENT**

Petitioner, Tyrone Williams, was the appellant in the First District Court of Appeal and the defendant in the trial court. This brief will refer to Petitioner as such, Defendant, or by proper name. Respondent, the State of Florida, was the appellee in the First District Court of Appeal and the prosecution in the trial court. This brief will refer to Respondent as such, the prosecution, or the State.

The record on appeal consists of one volume, which will be referenced as "R," followed by the appropriate page number (e.g. "R. 9"). "IB" will designate Petitioner's initial brief, followed by the appropriate page number (e.g., "IB. 14").

All bold-type emphasis is supplied, and all other emphasis is contained within original quotations unless the contrary is indicated.

## **STATEMENT OF THE CASE AND FACTS**

Respondent moves to strike Petitioner's Statement of Case and Facts as argumentative. Also, Petitioner's statement that "The First District interpreted the language of the statute to include a range of a mandatory minimum of twenty years to life . . . ." is incorrect. (IB. 6). Actually, the First District Court interpreted the language of Section 794.0115, Florida Statutes to include any term between twenty-five years and life in prison. *Williams v.*

*State*, 189 So. 3d 288, 289 (Fla. 1st DCA 2016).

Petitioner was convicted of sexual battery by use of force not likely to cause serious personal injury, a second degree felony punishable by up to fifteen years in prison. (R. 28). After being sentenced to life imprisonment as a dangerous sexual felony offender ("DSFO") pursuant to section 794.0115, Florida Statutes (2009), Petitioner, relying on *Wilkerson v. State*, 143 So. 3d 462 (Fla. 5th DCA 2014), filed a motion to correct his sentence. (R. II). In his motion, Petitioner argued that because his statutory maximum was only 15 years, the trial court erred in imposing a minimum mandatory term in excess of 25 years.

The First District disagreed with the Fifth District's holding in *Wilkerson* and held that based upon the plain language of section 794.0115, the minimum mandatory sentence under section 794.0115(2) was any term between twenty-five years and life in prison, ". . . as the statute specifically states that the minimum mandatory is '25 years imprisonment **up to, and including, life imprisonment.**'" *Williams v. State*, 189 So. 3d 288, 289 (Fla. 1st DCA 2016) (emphasis in original). The First District went on to state as follows:

There is no restriction on the length of the minimum mandatory that may be imposed, other than that it must be between twenty-five years and life. Thus, a minimum mandatory life sentence is authorized by section 794.0115 regardless of the statutory maximum of the

crime.

*Williams*, 189 So. 3d at 289-90.

## SUMMARY OF ARGUMENT

### ISSUE I

The First District's holding in *Williams v. State*, 189 So. 3d 288, 289 (Fla. 1st DCA 2016), i.e., that section 794.0115 authorized the trial court to impose a minimum mandatory life sentence regardless of the statutory maximum for the offense, was correctly decided. That's because the plain language of section 794.0115 specifies that the minimum mandatory sentence is any term between twenty-five years and life in prison, and the statute mandates that its minimum mandatory provisions take precedence over the statutory maximum for the offense as specified in section 775.082.

### ISSUE II

Even assuming that the plain meaning of section 794.0115 is ambiguous, an application of traditional canons of statutory construction reflect that the legislature's intent was that the statute's minimum mandatory provision (i.e., 25 years to life) was **not** to be limited by the statutory maximum for the offense as stated in section 775.082. As this Court held *Mendenhall*, in resolving any perceived conflict between the statutory maximum for an offense and the mandatory minimum provisions of a sentencing enhancement statute, the more specific provisions of the enhancement statute prevail over the general provisions of section

775.082 regarding statutory maximums.

Also, Petitioner's interpretation of section 794.0115 and that of the Fifth District in *Wilkerson* would render the phrase ". . . up to, and including, life imprisonment" meaningless as mere surplusage. In addition, the legislative history of section 794.0115 indicates that the legislature intended that the minimum mandatory provisions of 794.0115 were to take precedence over the statutory maximums specified in section 775.082.

### **ISSUE III**

This court should not recede from its decision in *Mendenhall* because this court's holding was correctly decided and it's unnecessary to do so to resolve the conflict issue in the instant case. While this Court found the minimum mandatory provisions of the "10-20-Life" unambiguous, the fact that this Court also employed rules of statutory construction to confirm the legislative intent doesn't make this Court's decision "an outlier in the court's precedent" as Petitioner contends.

By applying the rules of statutory construction in *Mendenhall*, this Court was merely acknowledging that even assuming the statute was ambiguous, the legislative intent could readily be determined by applying traditional canons of statutory construction. Also, it was necessary for this Court to do so in order to address *Mendenhall's* claim that this Court should apply

the rule of lenity, since the rule is a canon of last resort and only applies if the statute remains ambiguous *after* consulting traditional canons of statutory construction.

## ARGUMENT

### ISSUE I

WHETHER A TRIAL COURT HAS DISCRETION UNDER SECTION 794.0115(2) TO IMPOSE A MINIMUM MANDATORY TERM UP TO LIFE IN PRISON REGARDLESS OF THE STATUTORY MAXIMUM FOR THE OFFENSE WHEN THE STATUTE'S PLAIN LANGUAGE STATES THAT THE MINIMUM MANDATORY IS ANYWHERE FROM "25 YEARS IMPRISONMENT UP TO, AND INCLUDING, LIFE IMPRISONMENT."  
(RESTATED)

#### A. STANDARD OF REVIEW

Whether section 794.0115, Florida Statutes authorizes the imposition of a minimum mandatory sentence up to life in prison regardless of the statutory maximum for the offense is a question of law that requires interpretation of section 794.0115 to give effect to the legislature's intent. Therefore, the de novo standard of review applies. *State v. Dorsett*, 158 So. 3d 557, 560 (Fla. 2015) ("The interpretation of a statute is a purely legal matter and therefore subject to the de novo standard of review.") (quoting *Kephart v. Hadi*, 932 So. 2d 1086, 1089 (Fla. 2006)). See also *Mendenhall v. State*, 48 So. 3d 740, 747 (Fla. 2010) ("Questions of statutory interpretation are subject to de novo review.").

#### B. MERITS

Petitioner met the criteria for designation as a "Dangerous Sexual Felony Offender" (DSFO) pursuant to section 794.0115(2)(d), Florida Statutes by committing the sexual battery and robbery in the instant case while on probation for attempted sexual battery.

(R. 1). *Williams v. State*, 83 So. 3d 1001 (Fla. 1st DCA 2012). Petitioner doesn't challenge his designation as a DSFO or his eligibility for enhanced sentencing pursuant to section 794.0115. On the contrary, he acknowledges that section 794.0115(2)(e) "requires that an individual found to be a DSFO 'be sentenced to a mandatory minimum term of 25 years imprisonment up to, and including, life imprisonment.'" (IB. 10) (quoting section 794.0115(6)). However, he argues that "[u]nder the plain language of section 794.0115, Florida Statutes, when the statutory maximum of a charged offense is fifteen years, the maximum sentence that a trial court can impose is a twenty five year mandatory minimum." (IB. 10). Respondent respectfully disagrees.

As the First District held in *Williams v. State*, 189 So. 3d 288, 289 (Fla. 1st DCA 2016), "[t]he plain language of the statute makes the DSFO minimum mandatory sentence any term between twenty-five years and life in prison, as the statute specifically states that the minimum mandatory is "25 years imprisonment **up to, and including, life imprisonment.**" *Id.* at 289 (quoting § 794.0115(2), Fla. Stat. (2009)) (emphasis in original). Accordingly, the First District concluded that:

There is no restriction on the length of the minimum mandatory that may be imposed, other than that it must be between twenty-five years and life. Thus, a minimum mandatory life sentence is authorized by section 794.0115 regardless of the statutory maximum of the

crime.

*Williams*, 189 So. 3d at 289-90.

Petitioner's interpretation of section 794, as well as the Fifth District's construction in *Wilkerson v. State*, 143 So. 3d 462, (Fla. 5th DCA 2014), are totally inconsistent with this Court's construction of Florida's 10-20-Life statute (i.e., section 775.087), which, like the Dangerous Sexual Felony Offender Act (i.e., section 794.0115), involves an interplay between the statutory maximum for an offense under section 775.082 and the minimum mandatory term mandated by a sentence enhancement statute. In fact, the pertinent provisions of the "10-20-Life" statute (i.e., section 775.087) contain language that's virtually identical to the language in the Dangerous Sexual Felony Offender Act (i.e., section 794.0115).

The Dangerous Sexual Felony Offender Act states that a defendant who qualifies for designation as a DSFO ". . . **must be sentenced to a mandatory minimum term of 25 years imprisonment up to, and including, life imprisonment.**" § 794.0115(2), Fla. Stat. Similarly, the "10-20-Life" statute states that a defendant who discharges a semiautomatic firearm causing death or great bodily harm while committing an enumerated felony ". . . **shall be sentenced to a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison.**"

§ 775.087, Fla. Stat.

The Dangerous Sexual Felony Offender Act also states that **"If the mandatory minimum term of imprisonment imposed under this section exceeds the maximum sentence authorized under s. 775.082, s. 775.084, or chapter 921, the mandatory minimum term of imprisonment under this section must be imposed."** § 794.0115, Fla. Stat. Similarly, the "10-20-Life" statute (i.e., section 775.087) states that **"If the minimum mandatory terms of imprisonment imposed pursuant to this section exceed the maximum sentences authorized by s. 775.082, s. 775.084, or the Criminal Punishment Code under chapter 921, then the mandatory minimum sentence must be imposed."** § 775.087, Fla. Stat.

In *Mendenhall v. State*, 48 So. 3d 740, 745 (Fla. 2010), this Court determined that Florida's "10-20-Life" statute (i.e., section 775.087) authorized the trial court to impose a minimum mandatory sentence up to life regardless of the statutory maximum for the offense. This Court stated:

We next analyze the language and stated purpose of the statute to determine whether the statute provides trial courts with the discretion to impose a mandatory minimum sentence anywhere in the range of twenty-five years to life under section 775.087(2)(a)(3), even if that sentence exceeds the statutory maximum provided for in section 775.082. We conclude that it does.

*Mendenhall*, 48 So. 3d at 746.

Mendenhall, like Petitioner, argued that the "10-20-Life" statute was "ambiguous and that this Court should apply the rule of lenity." *Id.* at 750. (IB. 12). However, this Court disagreed, concluding that "[t]here is certainly nothing ambiguous about the statute's language that 'the convicted person shall be sentenced to a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison.'" *Id.* (quoting § 775.087(2)(a)(3), Fla. Stat.) Accordingly, this Court ". . . conclude[d] that under section 775.087(2)(a)(3), the trial court has discretion to impose a mandatory minimum within the range of twenty-five years to life" and held that "Mendenhall was properly sentenced to thirty-five years with a thirty-five-year mandatory minimum, notwithstanding the statutory maximum of thirty years contained in section 775.082 for Mendenhall's offense." *Id.*

Similarly, in the instant case the First District reasoned that there is nothing ambiguous about the language of Florida's Dangerous Sexual Felony Offender Act (i.e., section 794.0115), which ". . . specifically states that the minimum mandatory is '25 years imprisonment **up to, and including, life imprisonment.**'" *Williams*, 189 So. 3d 288, 289 (Fla. 1st DCA 2016) (quoting § 794.0115(2), Fla. Stat. (2009)) (emphasis in original). Accordingly, the First District concluded that section 775.082 doesn't limit the length of the minimum mandatory that may be

imposed pursuant to section 794.0115 "other than that it must be between twenty-five years and life" and that "a minimum mandatory life sentence is authorized by section 794.0115 regardless of the statutory maximum of the crime." *Williams*, 189 So. 3d at 289-90.

Petitioner's assertion that "[t]he classification as a DSFO does not specifically provide that a second degree felony is punishable by more than the mandatory minimum . . . ." is incorrect. (IB. 11). On the contrary, the plain language of section 794.0115(6) specifically states in pertinent part that:

**Notwithstanding s. 775.082(3), chapter 958, any other law, or any interpretation or construction thereof, a person subject to sentencing under this section must be sentenced to the mandatory term of imprisonment provided under this section.**

Thus, although section 775.082(3) specifies that a second degree felony is punishable ". . . by a term of imprisonment not exceeding 15 years," section 794.0115(6) specifically mandates that its minimum mandatory provisions take precedence over the statutory maximums in section 775.082(3).

In fact, this Court recently clarified that a trial court may impose any sentence of 25 years up to life for a 10-20-Life conviction regardless of the general statutory maximum. *Hatten v. State*, 41 Fla. L. Weekly S352 (Fla. August 25, 2016). However, to the extent the sentence imposed exceeds the statutory maximum it must be imposed as the minimum mandatory pursuant to the statutory

authority of the enhancement statute, e.g., section 775.087 or section 794.0115. *Id.* Therefore, because the 10-20-Life statute is almost identical to the DSFO statute, it follows that the same analysis should apply. Accordingly, the First District correctly interpreted section 794.0115.

## **ISSUE II**

WHETHER THE LEGISLATURE INTENDED SECTION 794.0115(2) TO AUTHORIZE TRIAL COURTS TO IMPOSE A MINIMUM MANDATORY SENTENCE UP TO LIFE IN PRISON REGARDLESS OF THE STATUTORY MAXIMUM FOR THE OFFENSE WHEN ITS INTENT TO DO SO IS APPARENT FROM THE PLAIN LANGUAGE OF THE STATUTE AND BY EMPLOYING CANONS OF STATUTORY CONSTRUCTION. (RESTATED)

### **A. STANDARD OF REVIEW**

Please see Section "A" in Issue I, above, for a discussion of the standard of review.

### **B. MERITS**

Appellant argues that ". . . if this Court finds section 794.0115, Florida Statutes is ambiguous, this Court should use the rules of statutory construction to hold that Petitioner's mandatory minimum sentence is limited to twenty-five years." (IB. 12). As stated in Issue I, above, it's Respondent's position that the First District was correct in concluding that "[t]he plain language of the statute makes the DSFO minimum mandatory sentence any term between twenty-five years and life in prison, as the statute specifically states that the minimum mandatory is "25 years

imprisonment **up to, and including, life imprisonment.**" *Williams*, 189 So. 3d at 289 (quoting § 794.0115(2), Fla. Stat. (2009)) (emphasis in original).

This Court has written that a ". . . statute's plain and ordinary meaning must control unless that meaning leads to a result that is unreasonable or clearly contrary to legislative intent." *English v. State*, 191 So. 3d 448, 450 (Fla. 2016). Therefore, because the plain meaning of section 794.0115(2) is unambiguous and doesn't lead to an unreasonable result or one that's clearly contrary to legislative intent, it's unnecessary for this Court to employ principles of statutory construction to determine the legislative intent. *English*, 191 So. 3d at 450 ("When the statutory language is clear or unambiguous, this Court need not look behind the statute's plain language or employ principles of statutory construction to determine legislative intent.") *Id.* "But 'if the statute is ambiguous on its face, the Court can only then rely upon the rules of statutory construction in order to discern legislative intent.'" *Koile v. State*, 934 So. 2d 1226, 1233 (Fla. 2006).

However, even assuming that the language of section 794.0115 is ambiguous, an application of traditional canons of statutory construction reflect that the legislature's intent was that the length the minimum mandatory wasn't limited by the statutory

maximum for the crime. One such rule applies when, as in the instant case, a perceived conflict arises between a general sentencing statute and a sentence enhancement statute. This Court has explained the rule as follows:

[I]t is a well settled rule of statutory construction ... that a special statute covering a particular subject matter is controlling over a general statutory provision covering the same and other subjects in general terms. In this situation "the statute relating to the particular part of the general subject will operate as an exception to or qualification of the general terms of the more comprehensive statute to the extent only of the repugnancy, if any."

*Mendenhall*, 48 So. 3d at 748 (quoting *McDonald v. State*, 957 So. 2d 605, 610 (Fla. 2007) (quoting *Adams v. Culver*, 111 So. 2d 665, 667 (Fla. 1959)). See also *McDonald v. State*, 957 So. 2d 605, 610-11 (Fla. 2007) (holding that the specific provisions of the "10-20-Life" statute control over the more general provisions of the Prison Releasee Reoffender statute).

In *Mendenhall*, this Court applied the above rule in the context of Florida's "10-20-Life" statute (i.e., section 775.087). Like the instant case, *Mendenhall* involved a perceived conflict between the general sentencing statute (i.e., section 775.082) and the minimum mandatory provisions of section 775.087. This Court explained the perceived conflict as follows:

Section 775.082(3)(b), which is in the general sentencing statute, provides the maximum sentence for a first-degree felony: "For a felony of the first degree, by a term of imprisonment not exceeding 30 years or, when specifically provided by statute, by imprisonment for a term of years not exceeding life imprisonment." However, section 775.087(2)(a)(3) clearly states: "[T]he convicted person shall be sentenced to a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison." Section 775.087(2)(c) makes reference to section 775.082 and states that the mandatory minimum, when it exceeds the statutory maximum, must be imposed.

*Mendenhall*, 48 So. 3d at 748.

Citing the above rule of construction, this Court concluded that the specific minimum mandatory provisions of the "10-20-Life" statute trumped section 775.082's general statutory maximum for the crime:

In resolving any perceived conflict between the statutory maximum in the general sentencing statute and the mandatory minimum range of twenty-five years to life, we conclude that the specific provisions of section 775.087(2)(a)(3) prevail over the general provisions of the 775.082 regarding statutory maximums.

*Mendenhall*, 48 So. 3d at 748. This rule of construction is equally applicable to the instant case, where Petitioner argues that a conflict exists between the general sentencing statute (i.e., section 775.082) and the specific minimum mandatory provisions of section 794.0115.

Another rule of statutory construction employed by this Court in *Mendenhall* is also applicable to the instant case. This Court explained the rule as follows:

Our reading of the statute is further supported by the application of the "elementary principle of statutory construction that significance and effect must be given to every word, phrase, sentence, and part of the statute if possible, and words in a statute should not be construed as mere surplusage." *Sch. Bd. of Palm Beach Cnty. v. Survivors Charter Sch., Inc.*, 3 So. 3d 1220, 1233 (Fla. 2009) (quoting *Gulfstream Park Racing Ass'n v. Tampa Bay Downs, Inc.*, 948 So. 2d 599, 606 (Fla. 2006)).

*Mendenhall*, 48 So. 3d at 749. Although *Mendenhall* involved the interpretation of Florida's "10-20-Life" statute (i.e., section 775.087), the issue in the instant case is virtually identical to the one presented in *Mendenhall*, to wit: ". . . whether the mandatory minimum terms of twenty-five years to life provide the trial judge with discretion to impose a mandatory minimum of twenty-five years to life without regard to the statutory maximum for the crime contained in section 775.082, Florida Statutes (2004)." *Mendenhall*, 48 So. 3d at 742.

This Court rejected *Mendenhall's* interpretation of the statute and held that the trial court *did* have such discretion, based in part on the application of the above rule of statutory construction:

To adopt Mendenhall's interpretation of the statute would render the phrase "and not more than a term of imprisonment of life in prison" meaningless and mere surplusage.

*Mendenhall*, 48 So. 3d at 749. Applying the same rule of construction to the instant case, Petitioner's interpretation of section 794.0115 would render the phrase ". . . up to, and including, life imprisonment" meaningless and mere surplusage.

Petitioner's argument that the legislative history of section 794.0115 reflects the legislature's intent to limit the court's discretion to impose a mandatory minimum up to life regardless of the statutory maximum is without merit. On the contrary, Senate Staff Analysis and Economic Impact Statements addressing the minimum mandatory provisions of the statute suggest otherwise. (R. 21).

The Senate staff statements contain examples of the application of section 794.0115 in which DSFO's convicted of second degree felonies (generally punishable by up to 15 years under section 775.082) faced sentences of "25 years to life." (R. 21). Respondent acknowledges that the Senate staff statements aren't necessarily *determinative* of final legislative intent. However, as this Court has previously noted, ". . . they are, nevertheless, 'one touchstone of the collective legislative will.'" *White v. State*, 714 So. 2d 440, 443 (Fla. 1998) (quoting *Sun Bank/South*

*Florida, N.A. v. Baker*, 632 So. 2d 669, 671 (Fla. 4th DCA 1994)).

Petitioner also argues that the phrase "including, life imprisonment" in section § 794.0115(2) "demonstrates this is only 'illustrative' of what **may** be imposed, and not a sentence that **must** be imposed as part of the mandatory minimum." (IB. 22). However, that's not inconsistent with the First District's holding that **the trial court has discretion** in DSFO cases to impose ". . . any term between twenty-five years and life in prison . . . ." *Williams*, 189 So. 3d at 289. (Fla. 1st DCA 2016). Nor is it inconsistent with this Court's holding in *Mendenhall* that ". . . [U]nder section 775.087(2)(a)(3), **the trial court has discretion** to impose a mandatory minimum within the range of twenty-five years to life" and that ". . . Mendenhall was properly sentenced to thirty-five years with a thirty-five-year mandatory minimum, notwithstanding the statutory maximum of thirty years contained in section 775.082 for Mendenhall's offense." *Mendenhall*, 48 So. 3d at 750.

Thus, a trial court has the discretion to impose any minimum mandatory sentence from 25 years to life, but if the trial court wants to exceed the general maximum for the offense, the total sentence imposed must be the minimum mandatory. For instance, like the 10-20-Life statute, the trial court could not impose a forty-year sentence with a 25-year minimum mandatory for a second degree

felony, although the trial court could impose a 40-year minimum mandatory for a second degree felony. See *Hatten v. State*, 41 Fla. L. Weekly S352 (Fla. August 25, 2016).

Petitioner's argument that the phrase ". . . up to, and including, life imprisonment" in section 794.0115(2)(e) is "nonessential" because it contains commas is also without merit because such a construction would render the statute meaningless as mere surplusage. *Warner v. City of Boca Raton*, 887 So. 2d 1023, 1033 n. 9 (Fla. 2004) ("This Court has stated that a statutory provision should not be construed in such a way that it renders the statute meaningless or leads to absurd results.").

Also, Petitioner's assertion that section 794.0115 doesn't authorize the imposition of a mandatory minimum in excess of the statutory maximum because it's ". . . not specific as to statutory maximums" is equally unpersuasive. (IB. 25-26). On the contrary, section 794.0115(6) specifically states that its minimum mandatory provisions override the statutory maximum in section 775.082(3):

**Notwithstanding s. 775.082(3), chapter 958, any other law, or any interpretation or construction thereof, a person subject to sentencing under this section must be sentenced to the mandatory term of imprisonment provided under this section.**

Thus, section 794.0115(6) specifically and unambiguously mandates that its minimum mandatory provision takes precedence over the statutory maximum provided in section 775.082(3).

### ISSUE III

WHETHER THIS COURT SHOULD RECEDE FROM ITS DECISION IN *MENDENHALL* WHEN THIS COURT'S HOLDING WAS CORRECTLY DECIDED AND WHEN ITS UNNECESSARY TO DO SO TO RESOLVE THE CONFLICT ISSUE IN THE INSTANT CASE. (RESTATED)

#### A. STANDARD OF REVIEW

Please see Section "A" in Issue I, above, for a discussion of the standard of review.

#### B. MERITS

Petitioner argues that "[t]his Court should recede from the majority's position in *Mendenhall v. State*, 48 So. 3d at 740 (Fla. 2010) and adopt Justice Pariente's dissent because of the Court's use of rules of statutory construction when the majority held the statute was unambiguous." (IB. 30). However, aside from the fact that the sole conflict issue in this case involves the Dangerous Sexual Felony Offender Act (i.e., section 794.0115, Florida Statutes) -- not the "10-20-Life" statute (i.e., section 775.087), it's unnecessary for this Court to recede from its decision in *Mendenhall* in order to resolve the conflict issue presented here.

It's true that in *Mendenhall* this Court found ". . . nothing ambiguous about the statute's language that 'the convicted person shall be sentenced to a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison.'" *Mendenhall*, 48 So. 3d at 750 (quoting section

775.087(2)(a)(3), Florida Statutes). However, contrary to Petitioner's argument, the fact that this Court also employed rules of statutory construction to confirm the legislative intent doesn't make this Court's decision "an outlier in the court's precedent." (IB. 31).

Employing rules of statutory construction while finding the "10-20-Life" statute unambiguous was merely an implicit acknowledgement by this Court that even *assuming* the statute was ambiguous, the legislative intent could readily be determined by applying traditional canons of statutory construction. Also, it was necessary for this Court to do so in order to address *Mendenhall's* claim ". . . that this Court should apply the rule of lenity." *Id.* That's because the ". . . rule of lenity is a canon of last resort and only applies if the statute remains ambiguous **after consulting traditional canons of statutory construction.**" *Paul v. State*, 129 So. 3d 1058, 1064 (Fla. 2013). See also *U.S. v. Shabani*, 513 U.S. 10, 17 (1994) ("The rule of lenity, however, applies only when, **after consulting traditional canons of statutory construction**, we are left with an ambiguous statute.").

## CONCLUSION

The First District's holding in *Williams*, i.e., that section 775.087 doesn't limit the length of the minimum mandatory that may be imposed pursuant to section 794.0115 "other than that it must be between twenty-five years and life" and that "a minimum mandatory life sentence is authorized by section 794.0115 regardless of the statutory maximum of the crime" was correctly decided. *Williams*, 189 So. 3d at 289-90. Therefore, Respondent respectfully requests this Court to approve the First District's decision in *Williams v. State*, 189 So. 3d 288 (Fla. 1st DCA 2016) and disapprove the decision of the Fifth District in *Wilkerson v. State*, 143 So. 3d 462, (Fla. 5th DCA 2014).

**SIGNATURE OF ATTORNEY AND CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by email to Rocco J. Carbone, III, Esq., at rocco.carbone@comcast.net on this 3rd day of January, 2017.

Respectfully submitted and served,

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**CERTIFICATE OF COMPLIANCE**

I hereby certify that the foregoing was printed in Courier New 12 point and thereby satisfies the font requirements of Florida Rule of Appellate Procedure 9.210.

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