

**IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
LEE COUNTY, FLORIDA** **CRIMINAL ACTION**

STATE OF FLORIDA,

Plaintiff,

vs.

Case No. 16-CF-000371

ADAM COSTELLO,

Defendant.

_____ /

**ORDER DIRECTING THAT THE STATE RESPOND TO GROUND 2
OF DEFENDANT'S SECOND AMENDED MOTION TO
CORRECT ILLEGAL SENTENCE BY MONDAY, OCTOBER 26, 2026**

THIS CAUSE comes before the Court on Defendant's *pro se* "Second Amended Motion for Correction of Illegal Sentence Pursuant to Fla. R. Crim. P. 3.800(a)," filed on September 18, 2025.¹ Having reviewed the motion, the case file, the applicable law, and upon due consideration, the Court finds as follows:

1. Defendant was charged by way of fourth Amended Information with leaving the scene of a crash (Count 1), a first-degree felony, and tampering with or fabricating physical evidence (Count 2), a third-degree felony. Defendant plead no contest and was sentenced to 10.5 years in Department of Corrections (DOC) as to Count 1, and to 5 years DOC as to Count 2.

Both counts were to run concurrently. Defendant did not appeal.

2. In his motion, Defendant alleges two grounds as to why his sentence is illegal:

Ground 1: Defendant's sentence as to Count 1 is illegal and must be corrected as a matter of law because it was imposed under a repealed statute.

¹ The Court notes that Defendant filed his original Rule 3.800(a) motion on July 14, 2025. Defendant filed an Amended Rule 3.800(a) motion on August 11, 2025, in which he added an Exhibit that was not in his original motion, however the claim remained substantively the same. On September 18, 2025, Defendant filed this instant motion, to which an additional claim was added. As such, Defendant's Second Amended motion will be treated as the operative motion that supersedes the prior motions filed.

Ground 2: Fla. Stat. § 921.0021(7)(e), as applied to Defendant, caused the sentence on Count 2 to be illegal and must be corrected as a matter of law.

3. In **Ground 1**, Defendant alleges that his sentence is illegal because he was sentenced under a repealed statute. Defendant appears to be challenging the conviction. As such, **Ground 1** will be addressed in a final order.

4. In **Ground 2**, Defendant alleges that the addition of the victim injury points pursuant to Fla. Stat. §921.0021(7)(e) for Count 2 render his sentence illegal because the added victim injury points raise his lowest permissible sentence to 10.5 years. As such, it is Defendant's position that his sentence of 5 years is illegal because it was a downward departure without written findings. The State is directed to respond to **Ground 2**.

Accordingly, it is

ORDERED AND ADJUDGED that the State shall file a response to **Ground 2** by **Monday, October 26, 2026**. The Response **shall cite all applicable case law, and shall attach all relevant portions of the record** which support or refute each claim, including, but not limited to, transcripts of hearings or proceedings, charging documents, pleadings, plea forms, orders, guidelines, scoresheets, and **all other supporting documentation**, such as appellate briefs or jail cards.

DONE AND ORDERED in Chambers at Fort Myers, Lee County, Florida


08/27/2026 15:40:17
16-CF-000371

Andrew Marcus, Circuit Court Judge psksErDO
16-CF-000371 08/27/2026 15:40:17

I hereby certify that a true and correct copy of the above order was served on August 27, 2026, as follows:

Electronically Served:
Office of the State Attorney
Court Administration (54)

Served by U.S. Mail:
Adam M. Costello, DC#B16188, Panama City CRC, 3609 W. Highway 390, Panama City, FL 32405.

KV

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