

MEMORANDUM DECISION ON REHEARING

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IN THE COURT OF APPEALS OF INDIANA

Leo Dent, Jr.,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

March 29, 2023

Court of Appeals Case No.
22A-PC-1032

Appeal from the Lake Superior
Court

The Honorable Gina Jones, Judge

The Honorable Kathleen Sullivan,
Magistrate

Trial Court Cause No.
45G03-9605-CF-94

Memorandum Decision on Rehearing by Judge Robb
Judges Mathias and Foley concur.

Robb, J.

- [1] This case comes before us on rehearing. In *Dent v. State*, No. 22A-PC-1032, 2023 WL 1460327 (Ind. Ct. App. Feb. 2, 2023), we concluded, in part, that Dent’s Appellate Rule 7(B) claim was barred by *res judicata*. Dent petitions for rehearing. We grant the petition but re-affirm our original conclusion.
- [2] In Footnote 1, we stated that Dent failed to cite case law suggesting the change in Rule 7(B)’s standard after his direct appeal affords him a second opportunity for appellate review of his sentence’s appropriateness. Dent argues he did cite case law which affords him such an opportunity, specifically *State v. Stidham*, 157 N.E.3d 1185, 1193 (Ind. 2020). In *Stidham*, our supreme court declined to apply *res judicata* to a sentencing claim because “two major shifts in the law present[ed] the extraordinary circumstances necessary to reconsider [its] prior decision rejecting Stidham’s appropriateness argument.” *Stidham*, 157 N.E.3d at 1194. These major shifts in the law were (1) “when we changed the standard by which we exercise our authority . . . ‘to review and revise’ sentences[.]” and (2) “when the U.S. Supreme Court began limiting when juveniles could be sentenced to the harshest punishments.” *Id.* at 1192-93.
- [3] Our supreme court explained:
- More than a decade after Stidham’s crimes, trials, and appeals, the [U.S. Supreme] Court declared the death penalty unconstitutional for juveniles. *Roper v. Simmons*, 543 U.S. 551, 578, 125 S.Ct. 1183, 161 L.Ed.2d 1 (2005). Several years later, the Court declared life-without-parole sentences unconstitutional for juveniles convicted of non-homicide offenses. *Graham v.*

Florida, 560 U.S. 48, 82, 130 S.Ct. 2011, 176 L.Ed.2d 825 (2010). Shortly after that, the Court again limited the applicability of life-without-parole sentences to juveniles when it held unconstitutional “a sentencing scheme that mandates life in prison without possibility of parole for juvenile offenders.” *Miller v. Alabama*, 567 U.S. 460, 479, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012).

Id. at 1193. These cases were then incorporated into Indiana sentencing cases, leading to the reduction in “maximum term-of-years sentences imposed for crimes committed when the defendants were juveniles” and the reduction of “a juvenile’s life-without-parole sentence[s] to a term of years.” *Id.* at 1194.

[4] In *Stidham*, the juvenile defendant received the maximum term of years for the crimes he committed. Here, as we address in the original opinion, Dent did not receive life without parole, nor did he receive a maximum sentence. He received a reduced sentence due to his juvenile status. Therefore, Dent’s reliance on *Stidham* is misplaced. We do not interpret *Stidham* to suggest the change in the Rule 7(B) standard *alone* permits this court to choose not to apply the doctrine of *res judicata*. Thus, we clarify that Dent did not cite case law that affords him a second opportunity for appellate review of his sentence’s appropriateness based *solely* on the change in Rule 7(B)’s standard.

[5] We grant Dent’s petition for rehearing, but in doing so we re-affirm our original opinion in all respects, subject to the above clarifications.

Mathias, J., and Foley, J., concur.