

IN THE DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

TERRELL D. BROWN,

DEFENDANT-APPELLANT,

-Versus-

THE STATE OF FLORIDA,

PLAINTIFF-APPELLEE,

**(CRIMINAL APPEAL)
3D2024-0212**

SUMMARY

**RECORD ON APPEAL IN CASE NO. F05020333
IN THE CIRCUIT COURT OF F05020452
THE ELEVENTH JUDICIAL CIRCUIT
OF FLORIDA, IN AND FOR MIAMI-
DADE COUNTY**

**HONORABLE RAMIRO ARECES
JUDGE, CRIMINAL DIVISION OF THE
CIRCUIT COURT OF THE ELEVENTH
JUDICIAL CIRCUIT OF FLORIDA IN
AND FOR MIAMI-DADE COUNTY**

**INPROPER PERSON
TERRELL D. BROWN
DC #M19899
FLORIDA STATE PRISON -MAIN UNIT
P.O. BOX 800
RAIFORD, FL 32083**

**HONORABLE ASHLEY MOODY,
ATTORNEY GENERAL
ATTORNEY FOR DEFENDANT
APPELLEE
1 ST. S.E. 3RD AVE. SUIT 900
MIAMI, FLORIDA 33131**

F05020333 - 3D2024-0212

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Div 40

FOS 20428

FOS 20452

FOS 20333

MOTION FOR CORRECTION OF ILLEGAL SENTENCE, INCORRECT SENTENCING SCORESHEET, OR ERRONEOUS SEXUAL PREDATOR DESIGNATION FLORIDA RULE OF CRIMINAL PROCEDURE 3.800(a)

INSTRUCTIONS FOR FILING MOTION FOR CORRECTION OF SENTENCE PURSUANT TO FLORIDA RULE OF CRIMINAL PROCEDURE 3.800(a) READ CAREFULLY

- 1. The attached motion is to be used to request a correction of illegal sentence, incorrect calculation in a sentencing scoresheet, or erroneous sexual predator designation. This form should not be used for motions for correction of jail credit (see Fla. R. Crim. P. 3.801).
2. No successive motion for correction of incorrect calculation in a sentencing scoresheet or the correction of erroneous sexual predator designation will be considered. If a motion fails to allege new or different grounds for relief, and the prior determination was on the merits, the motion may be dismissed.
3. The court records must demonstrate, on their face, that you are entitled to a correction of sentence or that a sexual predator designation is erroneous. The records that demonstrate that a sentence is illegal, that there is an incorrect calculation in a sentencing scoresheet, or that a sexual predator designation is erroneous, should be attached to this motion.
4. You must complete the attached motion by filling in the blank spaces.
5. You must tell the truth and sign the attached motion. If you make a false statement of a material fact in your motion, you may be prosecuted for perjury. You must declare that you have read the motion for relief, or had the motion read to you, that you understand its contents, and that all of the facts contained in the motion are true and correct. If you do not answer YES to question 5, your motion will be rejected as incomplete.
6. You must file the attached motion in the court that imposed the sentence.
7. You are not required to pay a filing fee to file the attached motion.

FILED IN COURT ROOM 12:05

In the Circuit Court of the ELEVENTH Judicial Circuit in and for MIAMI Dade County, Florida

Denied w/o hearing JAN 19 2024

State of Florida v. Terrell D. Brown

MOTION FOR CORRECTION OF ILLEGAL SENTENCE, INCORRECT SENTENCING SCORESHEET, OR ERRONEOUS SEXUAL PREDATOR DESIGNATION

Terrell D. Brown (hereinafter "Defendant"), in pro se fashion, respectfully moves this Honorable Court for correction of:

- illegal sentence; and/or
incorrect calculation in a sentencing scoresheet; and/or
erroneous sexual predator designation

pursuant to Florida Rule of Criminal Procedure 3.800(a). In support of the motion, the defendant states the following in a question-and-answer format:

1. What are the FACT(S) that entitle you to correction of sentence? Facts state charge me of a robbery 812.13(2)(A) 775.087, 777.001 case # FOS 020452 charges set 812.13(2)(C) case # FOS 020333 sentencing me to NATURAL life under 10-20-life

30 yrs concurrent with 10 yrs (mini Xman) of both cases & HVD

2. Where in the court's record is it demonstrated that you are entitled to correction of sentence, correction of incorrect calculation in a sentencing scoresheet, or the correction of erroneous sexual predator designation? Judgment files of charges convicted charges (info) files court Docket statement

3. Is this the first motion you have filed requesting this correction of sentence or removal of an erroneous sexual predator designation? I'm not sure I lost alot of law work with Hurricane Michael 2018 At Court

If you answered NO, how many prior motions have you filed? What was the claim in each motion? Post conviction relief & relief from final judgement that's ALL I remember in (2012)

As to EACH motion, what was the result? Post conviction relief Denied w/o hearing. Relief from final judgement Denied w/o hearing. That's ALL I remember in from (2012)

4. What is the correct sentence or designation that you are requesting in this motion? Resentence me up under the correct guidelines structure if permissible. remove natural life sentence giving me a opportunity At my liberty release date.

5. Under penalties of perjury and administrative sanctions from the Department of Corrections, including forfeiture of gain time if this motion is found to be frivolous or made in bad faith, I certify that I understand the contents of the foregoing motion, that the facts contained in the motion are true and correct, and that I have a reasonable belief that the motion is timely filed. I certify that this motion does not duplicate previous motions that have been disposed of by the court. I further certify that I understand English and have read the foregoing motion or had the motion read to me, or the foregoing motion was translated completely into a language which I understand and read to me by(name)....., whose address is(address)....., and whose certification of an accurate and complete translation is attached to this motion.

1st Terrell Brown
Name Terrell Brown
DC# M17899

Certification of Mailing

(Must use Certification of Mailing OR Certificate of Service)

I certify that I placed this document in the hands of(here insert name of institution official)..... for mailing to(here insert name or names and address(es) used for service)..... on(date).....

1st Terrell Brown
Name Terrell Brown
Address F.S.P P.O. Box 800, Raftord, FL. 32083
DC# M17899

Certificate of Service

(Must use Certification of Mailing OR Certificate of Service)

I certify that the foregoing document has been furnished to (here insert name or names, address(es) used for service and mailing address(es)) by (e-mail) (delivery) (mail) (fax) on(date).....

1st _____
Attorney

30-35 concurrent with WYS (MIND) (MAN) of both cases & HVO

2. Where in the court's record is it demonstrated that you are entitled to correction of sentence, correction of incorrect calculation in a sentencing scoresheet, or the correction of erroneous sexual predator designation? Judgment files of charges convicted charged info files Court Docket Station

3. Is this the first motion you have filed requesting this correction of sentence or removal of an erroneous sexual predator designation? I'm not sure I lost ALOT OF LAW COURT IN THE NAME MICHAEL 2018 AT COURT

If you answered NO, how many prior motions have you filed? What was the claim in each motion? Post CONVICTION Relief & Relief from Final Judgment that ALL I remember in (2012,

As to EACH motion, what was the result? Post conviction relief Denied w/o hearing Relief from final Judgment Denied w/o hearing. has ALL I remember from (2012)

4. What is the correct sentence or designation that you are requesting in this motion? Resentence me up under the correct guidelines structure if permissible remove natural life sentence giving me a opportunity At my liberty release date.

5. Under penalties of perjury and administrative sanctions from the Department of Corrections, including forfeiture of gain time if this motion is found to be frivolous or made in bad faith, I certify that I understand the contents of the foregoing motion, that the facts contained in the motion are true and correct, and that I have a reasonable belief that the motion is timely filed. I certify that this motion does not duplicate previous motions that have been disposed of by the court. I further certify that I understand English and have read the foregoing motion or had the motion read to me, or the foregoing motion was translated completely into a language which I understand and read to me by(name)....., whose address is(address)....., and whose certification of an accurate and complete translation is attached to this motion.

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I certify that the foregoing document has been furnished to (here insert name or names, address(es) used for service and mailing address(es)) by (e-mail) (delivery) (mail) (fax) on(date).....

1st _____
Attorney

Continue F
Fact & Cr. Info
Q. 1

Q. 1 Fact: state charge me of a Robbery 812.13(2)(A), 775.087 777001 ^{CASE # FOS-020432}
& charges of 812.13(2)(C) case# FOS-020333 sentencing me to NATURAL Life under 10 20 Life
& 30 years concurrent with 10 years (min) MANDATORY of Both cases & (HVO)

Ground #1
#1
Oct 13 2006
I lost trial

I was convicted of 812.13(2)(A) This statute enhances a robbery to a first degree felony ~~if~~ if robber carries a FIREARM under statute 812.13(2)(A) ~~reclassifies~~ reclassifies robbery into a higher degree of felony increasing potential maximum of punishment. They ^{never} found me guilty of carrying a FIREARM during commission, nor did the state find me guilty of ACTUAL POSSESSION 775.087(2)

Ground #2

I WAS CONVICTED OF ACTUAL POSSESSION 775.087(2) Now the facts of the record will show that this statute in my charging info does not have a subsection ^{not putting} emphasis on the identity, also upon the finding of guilt in this statute the jury must find defendant guilty of "ACTUAL POSSESSION" in jury instructions. ^{(6 months state 188 So 311071 2008 Arnett v state 138 So.}

FLA APP LOUIS 2720

3d 87 (FLA 1st DCA 2013) Hough v state 448 So. 2d 628, 649 (FLA 5th DCA 1984) (interpreting section 775.087 to mean that mandatory (min) sentencing may be imposed only if defendant has ACTUAL AS AGAINST VICARIOUS, possession of a FIREARM) WALLACE v state 929 So. 2d 615, 617 (FLA 4th DCA 2006) (Holding that a finding of possession AS AGAINST ACTUAL POSSESSION is insufficient) (Young v state 86 So. 3d 541 FLA 2012 2 DCA 2012) DAVIS v state 884 So. 2d 1058, 106

FLA 2d DCA 2004. As mentioned earlier, the charging information file does not have a subsection in 775.087 not putting any clarity of the states term for penalty, but in the special provisions inscription facts the penalties of my status sentence is clear: 775.087(2) 10-20 life (10 years) (min) ~~to enhance~~ To enhance a defendants sentence under 775.087(2) the grounds for enhancement must be clearly charged in the information. It is a basic tenet of constitutional law that due process is violated when a individual is convicted of a crime not charged in the charging instrument. As was my conviction in this matter.

Ground #3

I was ^{practically} under 775.084(4) state sentence me as HVO using 98-3646(A) + 02-552 AND OZ CASE FILES. I was convicted of OZ case address switching in OZ, I WAS NOT AWARE OF HVO STATUS until after I lost trial Oct 13 2006 AND WAS SENTENCED Dec 13 2006 This means not giving me opportunity to MAKE better decisions before trial causing me to be subject to a harsher sentencing, because the cases used to HVO Defendant was 98-3646(A) AND 02-552 case files. They used this method to keep me ignorant when I should have been notified of HVO violation. I lost trial Oct 13 2006 AND WAS SENTENCED Dec 13 2006 came to jail June 25 2005. 18 months has passed before my HVO violation status occurred by state. I should have been notified Dec 13 2006, A should be notified Dec 13 2006

(CC#: F05020452)

COUNT 1

TERRELL D BROWN , on or about April 06, 2005, in the County and State aforesaid, did unlawfully, by force, violence, assault or putting in fear, take certain property, to wit: U.S. COIN OR CURRENCY and/or CELLULAR TELEPHONE and/or JEWELRY, said property being the subject of larceny, and of the value of ~~less than three hundred dollars (\$300.00)~~, the property of WILBUR JONES, as owner or custodian, from the person or custody of WILBUR JONES, with the intent to temporarily or permanently deprive the above-named owner(s) or custodian(s) of the said property, and during the commission of the offense, said defendant possessed a firearm or destructive device in violation of s. 812.13(2)(A) and 775.087 and s. 777.011, Fla. Stat., contrary to the form of the Statute in such cases made and provided, and against the peace and dignity of the State of Florida.

and/or vehicle keys
more than \$300.

CC
10-12-06

No Substant

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA
 IN THE COUNTY COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA. **153**

DIVISION
 CRIMINAL
 OTHER

JUDGMENT
 Probation Violator
 Community Control Violator
 Retrial
 Resentence

THE STATE OF FLORIDA VS. **TERRELL DONNELL BROWN.**

PLAINTIFF **DEFENDANT**

CASE NUMBER: F05-20333

FILED FOR RECORD
 2007 JAN -9 PM 2:49
 CLERK OF COURT
 11th JUDICIAL CIRCUIT
 MIAMI, FLORIDA

The Defendant, TERRELL DONNELL BROWN being personally before this Court represented by J. BATISTA, PA his attorney of record, and the State represented by C. CORONA & T. KOSS Assistant State's Attorney, and having:

been tried and found guilty entered a plea of guilty entered a plea of nolo contendere to the following crime(s):

COUNT	CRIME	OFFENSE STATUTE NO.	DEGREE OF CRIME	OBTS NO.
1	ROBBERY	812.13(2)(C)	2/F	

and no cause being shown why the Defendant should not be adjudicated guilty, IT IS ORDERED THAT the Defendant is hereby ADJUDICATED GUILTY of the above crime(s).

(CC#: F05020333)

COUNT 1

TERRELL DONNELL BROWN , on or about April 17, 2005, in the County and State aforesaid, did unlawfully, by force, violence, assault, or putting in fear, take certain property, to wit: U.S. COIN OR CURRENCY, said property being the subject of larceny, and of the value of less than THREE HUNDRED DOLLARS (\$300.00), the property of WILBUR JONES, as owner or custodian, from the person or custody of WILBUR JONES, with the intent to temporarily or permanently deprive the above-named owner(s) or custodian(s) of the said property, in violation of s. 812.13(2)(c), Fla. Stat., contrary to the form of the Statute in such cases made and provided, and against the peace and dignity of the State of Florida.

IN RE: Defendant
TERRELL DONNELL BROWN

Exhibit 5 of 8

SPECIAL PROVISIONS

CASE NUMBER: F05-020452

AS TO COUNT: 1

By appropriate notation, the following provisions apply to the sentence imposed:

MANDATORY / MINIMUM PROVISIONS:

<u>CATEGORY</u>	<u>SPECIAL PROVISION DESCRIPTION</u>	<u>SPECIFICATION</u>
Firearm	Possession	10 YEARS MINIMUM MANDATORY, UNDER 10/20/LIFE CONCURRENT WITH MINIMUM MANDATORIES IN F05-20333
Firearm	It is further ordered that the specified mandatory minimum imprisonment provisions of Florida Statute <u>775.087(2)</u> are hereby imposed for the sentence specified in this count.	
Felony Offender	The defendant is adjudicated a habitual violent felony offender and has been sentenced to an extended term in accordance with the provisions of Florida Statute <u>775.084(4)</u> . A minimum term as specified above must be served prior to release. The requisite findings by the court are set forth in a separate order or stated on the record in open court.	---



IN REF: Defendant

TERRELL DONNELL BROWN

Exhibit (6) of 8

SPECIAL PROVISIONS

CASE NUMBER: F05-020333

AS TO COUNT: 1

By appropriate notation, the following provisions apply to the sentence imposed:

MANDATORY / MINIMUM PROVISIONS:

<u>CATEGORY</u>	<u>SPECIAL PROVISION DESCRIPTION</u>	<u>SPECIFICATION</u>
Felony Offender	The defendant is adjudicated a habitual violent felony offender and has been sentenced to an extended term in accordance with the provisions of Florida Statute 775.084(4). A minimum term as specified above must be served prior to release. The requisite findings by the court are set forth in a separate order or stated on the record in open court.	10 YEARS MINIMUM MANDATORY

CIRCUIT COURT DADE COUNTY - CRIMINAL DIVISION

SECTION: F070
 BROWN, TERRELL DONNELL
 6340 NW 14 COURT
 MIAMI, FL 33147

F05020452
 02/29/1980
 B/M
 1154064

ARRESTED: 06/27/2005



NEW ADDRESS

DATE	ADDRESS

ADJ INSOLVENT - APPT. P.D. / S.A.P.D.

P.D APPT:

JUN 28 2005
 AUG 11 2005 Jose Batista PEAC

DETERMINATION OF INDIGENCY

- INDIGENT
- NOT INDIGENT

CASE DISMISSED

NO ACTION

NOLLE PROS

TRANSFERRED JURISDICTION TO

BOND RELEASE

BOND ESTREATURE

TO BE ARRESTED ON

JUDGE/CLERK	DATE	GUILTY	NOT GUILTY	WAIVER OF JURY	STATE	DEFENSE	INTERPRETER	CT. REPORTER	FIRM
V. Sigler - RH J. [unclear] Bk	JUL 18 2005 6-29-2005				M. Deliberato	P. Goldman PD	K. Boyer Capital		
V. Sigler - RH J. [unclear] Bk	AUG 11 2005				M. Deliberato	Jose Batista PEAC			
V. Sigler - RH H. Page					H. Page	do			

CLERK'S MINUTES	DEPT - ACTION DATE	ORAL NOTICE	CONTINUED TO/FOR	S	D	C
6-29-2005 Dmds Trl By Jury, 15 Days For Mtns	JUN 28 2005		JUL 19 2005			
JUL 18 2005 Reset 30th day	JUL 18 2005		7-27-05 AGS			
JUL 27 2005 no bond; keep like	JUL 27 2005		9-14-05 Dmd			
Notice of State's intention to seek enhanced penalty filed	AUG 11 2005		9-26-05 to			
notice of PERQ qualification filed	SEP 14 2005		9-14-05 plea			
			11-21-05 to			
			11-18-05 Dmd			
			9-22-05 plea			

CLOSED CASE
JURY - NON-JURY TRIAL - PV HEARINGS

JUDGE/CLK	P. Lopez	do	P. Lopez	do	P. Lopez	do
DATE	OCT 10 2006	OCT 11 2006	OCT 12 2006	DEC 13 2006	MAR 29 2007	
STATE	C. CARONA	do	do	do	do	
DEFENSE	T. KROSS J. Batista	do do	do do	do do	J. Dehanna	do
INTERPRETER						
CT. REPORTER	T. OWENS	do	do	P. Smith	J. Pinner	
FIRM	MATZ	do	do	do	do	

CLERKS MINUTES AS REDUCED: LESSER INCLUDED OFFENSE

DEFT. SWORN & VOIR DIRE RE PLEA.

DEFT. WAIVES PSI

SCORE SHEET SUBMITTED NOT SUBMITTED

ACQUITTED (COURT) (JURY)

OCT 10 2006 See Lade County
Petit Jury list for both cases
are being tried together
See jury minutes

- 1.97 - Sherry Ann Dowell
- 2.127 - Charles Valcaine - Stuart
- 3.233 - Genevieve Liputano
- 4.373 - Lynndon White
- 5.559 - Jerome Anthony Brown
- 6.592 - Carl Irving Schwartz

Oct. 1191 - Lesley Margaret Lees

OCT 12 2006 See Jury Minutes
STAY OF EXECUTION: defer date to trial set

CT. COST WAIVED <input type="checkbox"/>	IMPOSED <input checked="" type="checkbox"/>
PREV. PROG. (775.083)(2)	\$ 50.00
LETTF (938.01(1) & 938.15)	\$ 5.00
CCC (938.03)(4)	\$ 50.00
LFCJTF (938.05)(1)	\$ 200.00
P.D. APPL. FEE (27.52)(2)	\$ 40.00
Fine (775.083)(1)	\$
Surcharge (5% of Fine) 536.04	\$ 85.00
CRIME STOP (938.06)	\$ 20.00
Prostitution Civil Pen (796.07)(6)	\$ 500.00
Domestic Violence Sur 938.08	\$ 201.00
Rape Crisis Trust Fund 938.085	\$ 151.00
Child Advocacy Trust 938.10(1)	\$ 101.00
FDLE Operating Trust Fund 938.25	\$ 100.00
Alcohol & Drug Abuse Program 938.21	\$
CT. ORD. for Add'l Court Cost 939.185(1)(a)	\$ 65.00
OTHER T.C.	\$ 3.00
OTHER	\$

Stay Due Date 1-13-2030

FINDING OF GUILT (COURT) (JURY) OCT 12 2006

ADJ OCT 12 2006 W/H

ADJ DELINQUENT

- SENTENCE(S) -

TIME SERVED IN DCJ TO WIT: DAYS

(DA/MO) IN DCJ. SENT. TO BEGIN FROM DATE OF INCARCERATION NO CTS.

as #.V.D.
OCT 13 2006 Life imprisonment
with 10 years m.m. and
10 years m.m. under 10, 20, life
for use of a firearm. Concurrent
w/ 05-20333 m.m.'s
concurrent with each other &
concurrent w/ m.m. in 05-20333
STAY OF EXECUTION UNTIL: 1055 535 DAYS CTS.

W/H & (MO/YR) COMM. CTRL.

W/H & (MO/YR) PROB.

SP. COND.: OF COMM. CTRL PROB.

SUC/UNSUC. TERM. OF COMM. CTRL. / PROB.

**CIRCUIT COURT DADE COUNTY
CRIMINAL DIVISION
THE STATE OF FLORIDA
VS. NO. 05-20333**

JUDGE/CLERK	P. Lopez msd	Proper 266	P. Lopez msd	do
DATE	MAR 20 2006	MAY - 8 2006	MAY 13 2006	MAY 30 2006
GUILTY				
NOT GUILTY				
WAIVER OF JURY				
STATE	C. Corona	do	do	M. DeLorenzo
DEFENSE	J. Batista DNP	do	do DNP	A. Peralta for J. Batista
INTERPRETER				
CT. REPORTER	V. Williams	do	do	do
FIRM	Motz	do	do	do

CLERK'S MINUTES	DEFT - ACTION DATE	ORAL NOTICE	CONTINUED TO/FOR	S	D	C
AUG 11 2005 See Certification of Conflict of Interest And Order Appointing Conflict Attorney, Jose Batista appointed PCAC. See also 05-20452.	SEP 14 2005		11-21-05 to 11-18-05 and 9-22-05 plea			←
SEP 14 2005	SEP 22 2005		all call			
NOV 15 2005	NOV 15 2005	DNP	11-21-05 TRI			
NOV 21 2005	NOV 21 2005	DNP	3-1-06 plea			✓
NOV 21 2005	MAR 08 2006	DNP	3-13-06 TRI			
NOV 21 2005	MAR 13 2006		3-20-06 TRI			✓
OCT 03 2005 See prese demand for Speedy Counsel adopted filed 9-29-06	MAR 20 2006		5-8-06 TRI			✓
OCT 10 2005 See Defts - mtr to suppress - cont witnesses	MAY - 1 2006		5-1-06 Rpt			
① Det. MAZZARELLA S+ Test	MAY - 8 2006		5-8-06 TR			
State 041 - Photolineup	MAY 15 2006		5-22-06 TR			
State 042 - Copy of Photolineup	MAY 15 2006		5-15-06 plea			✓
State 043 - Photo Lineup	MAY 30 2006		5-5-06 TR			✓
Def mtr to consolidated cases for trial purpose	MAY 30 2006		5-30-06 plea			✓
			8-14-06 TRI			✓
			10-7-06 Rpt			✓
			10-10-06 TR			✓
			10-3-06 plea			
			10-10-06 TR			
			10-11-06 TR/ mtr			

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

STATE OF FLORIDA,
Plaintiff,

vs.

Case No. F05-20333 & F05-20452
Section No. 070
Judge Ramiro Areces

TERRELL BROWN,
Defendant

**STATE'S RESPONSE TO DEFENDANT'S MOTION TO CORRECT ILLEGAL
SENTENCE**

COMES NOW KATHERINE FERNANDEZ RUNDLE, State Attorney of the Eleventh Judicial Circuit of Florida, by and through the undersigned Assistant State Attorney, and asks that the Court deny the defendant's Motion To Correct Illegal Sentence that was provided by him to corrections authorities for mailing on July 21, 2023 on the following grounds:

The defendant claims that the verdict form in this case did not make a sufficient finding that he was armed with a firearm in order to reclassify the degree of his robbery conviction to a first-degree felony punishable by life in prison. This claim is not properly the subject of a Motion to Correct Illegal Sentence under Florida Rule of Criminal Procedure 3.800 (a). *Chanquet v. State*, 646 So.2d 834 (Fla. 3d DCA 1994).

The defendant's second claim is that the Information, by not containing a subparagraph to Florida Statute 775.087, is insufficient to invoke the 10-20-Life firearm minimum mandatory penalties. This claim is also not properly the subject of a Motion to Correct Illegal Sentence under Florida Rule of Criminal Procedure 3.800 (a). *Martinez v. State*, 211 So.3d 989 (Fla. 2017). Of the cases cited by the defendant in support of his claim, none of them are illegal sentence proceedings under Rule 3.800 (a).

The defendant's third claim is that he was not aware of his status as a Habitual Violent Offender and Prison Releasee Reoffender until after he was found guilty at trial. The defendant's claim is refuted by the record. First, the attached docket entry shows that a notice to seek an enhanced penalty, as well as a PERR notice was filed on July 25, 2005. Additionally, pages 59 and 60 of the trial transcript show that the defendant was colloquied concerning his potential sentencing exposure shortly before the trial commenced. Lastly, a notice defect does not render a sentence illegal. *Cooper v. State*, 817 So.2d 934 (Fla. 3d DCA 2002).

Respectfully submitted,

KATHERINE FERNANDEZ RUNDLE
STATE ATTORNEY

By: Philip W. Maniatty

/s/Philip W. Maniatty
Assistant State Attorney
Florida Bar # 238902
1350 Northwest 12th Avenue
Miami, Florida 33136-2111
(305) 547-0100
FelonyService@MiamiSAO.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and exact copy of the above was furnished to Terrell Brown, DC#19899, Florida State Prison, P.O. Box 800, Raiford, Florida 32083, by mail on this 17th day of November, 2023.

Philip W. Maniatty
/s/Philip W. Maniatty
Assistant State Attorney

646 So.2d 834

District Court of Appeal of Florida,
Third District.

Eugene CHANQUET, Appellant,

v.

The STATE of Florida, Appellee.

No. 94-1175.

1

Dec. 14, 1994.

Synopsis

Defendant was convicted in the Circuit Court, Dade County, Ellen J. Morphonios, J., and he appealed. The District Court of Appeal affirmed, and defendant moved for rehearing. The District Court of Appeal, 570 So.2d 962, reversed and remanded. In substituted opinion on motion for rehearing, the District Court of Appeal, 586 So.2d 499, reversed and remanded for resentencing within Guidelines. On remand, the Circuit Court, Rodolfo N. Sorondo, Jr., J., sentenced defendant to concurrent terms of 27 years for each of three felonies, and defendant appealed denial of his motion to correct illegal sentence. The District Court of Appeal held that defendant's claim that jury verdict form on kidnapping count did not contain sufficiently specific jury finding that defendant possessed weapon or committed aggravated battery during kidnapping offense was not proper subject for motion to correct illegal sentence.

Affirmed.

West Headnotes (2)

[1] **Sentencing and Punishment** ⇨ Irregularity or Error in Sentencing Proceedings

Defendant's claim that jury verdict form on kidnapping count did not contain sufficiently specific jury finding that defendant possessed weapon or committed aggravated battery during kidnapping offense was not proper subject for his motion to correct illegal sentence. West's F.S.A. RCrP Rule 3.800(a).

4 Cases that cite this headnote

[2] **Burglary** ⇨ Sentence and Punishment

Defendant's sentence of 27-years imprisonment for offense of burglary of conveyance with assault was properly scored; offense was first-degree felony punishable by life. F.S.1987, § 810.02(2)(a).

Attorneys and Law Firms

*834 Eugene Chanquet, in pro. per.

Robert A. Butterworth, Atty. Gen., and Michael J. Neimand, Asst. Atty. Gen., for appellee.

Before BARKDULL, COPE and GODERICH, JJ.

Opinion

PER CURIAM.

Eugene Chanquet appeals an order denying his motion to correct illegal sentence under Florida Rule of Criminal Procedure 3.800(a). We affirm.

*835 Defendant Chanquet was convicted of three felonies and the trial court entered departure sentences of life imprisonment. On direct appeal the convictions were affirmed, but the departure sentences were vacated and the cause remanded for resentencing within the sentencing guidelines. *Chanquet v. State*, 570 So.2d 962 (Fla. 3d DCA 1990), *opinion superseded on rehearing*, 586 So.2d 499 (Fla. 3d DCA 1991). On remand defendant was sentenced to concurrent terms of 27 years for each of the three felonies.¹

In 1994 defendant filed his motion to correct illegal sentence under Florida Rule of Criminal Procedure 3.800(a). The motion raised two points.

[1] Defendant first contended that his sentence for kidnapping was illegal. In this case the defendant's kidnapping charge under subsection 787.01(1), Florida Statutes (1987), was a first degree felony punishable by life imprisonment. *Id.* § 787.01(2). The offense was enhanced to a life felony by virtue of subsection 775.087(1), Florida Statutes (1987). Defendant contends that the jury verdict form on the kidnapping count did not contain a sufficiently specific jury finding that the defendant had possessed a weapon.

or committed an aggravated battery, during the kidnapping offense, *see id.* § 775.087(1), so as to allow reclassification of the kidnapping offense to a life felony. Defendant argues that the alleged deficiency in the jury finding renders the sentence illegal for purposes of Rule 3.800(a). He requests that the reclassification be stricken and that his sentencing guidelines scoresheet be recalculated accordingly.

Defendant's claim is not properly cognizable under Rule 3.800(a). Here, the judgment reflects that defendant was convicted of violation of sections 787.01 and 775.087, Florida Statutes (1987). The judgment classifies the degree of crime as a life felony. The offense was scored as a life felony on the guidelines scoresheet. Defendant's sentence is within the legal maximum, and there is no facial calculation error on the guidelines scoresheet. In essence the defendant is attempting to challenge the sufficiency of the jury verdict to support the reclassification. That is not a proper subject for a motion under Rule 3.800(a). *See Fla.R.Crim.P. 3.800(a); Gattrell v. State*, 626 So.2d 1364, 1365 (Fla.1993); *State v. F.G.*, 630 So.2d 581, 583 (Fla. 3d DCA 1993), *opinion adopted*, 638 So.2d 515 (Fla.1994); *Judge v. State*, 596 So.2d 73, 76-77

(Fla. 2d DCA 1991) (en banc), *review denied*, 613 So.2d 5 (Fla.1992); *Jennings v. State*, 478 So.2d 1109 (Fla. 1st DCA 1985), *review denied*, 488 So.2d 68 (Fla.1986).

[2] Assuming, without deciding, that defendant's second issue is cognizable under Rule 3.800(a), the defendant's argument is without merit. The offense of burglary of a conveyance with an assault is a first degree felony punishable by life. § 810.02(2)(a), Fla.Stat. (1987). It was properly scored.

Finally, assuming arguendo that defendant's position on both points had merit, and that defendant's point score was reduced for both convictions, defendant's 27-year sentences would still be in the permitted range.

Affirmed.

All Citations

646 So.2d 834, 19 Fla. L. Weekly D2597

Footnotes

- 1 On remand the defendant was the beneficiary of a sentencing error. At resentencing the trial court was informed that the defendant's sentencing guidelines range was 22 to 27 years. The court imposed a 27-year sentence on each count.

In proceeding as it did, the trial court was under the erroneous impression that the correct guidelines range for the defendant was the recommended range of 22 to 27 years. However, defendant had committed his crimes on October 8, 1988. For crimes committed after October 1, 1988, the trial court was allowed to use the permitted range, *see* Ch. 88-131, §§ 1, 9, at 700, 710, Laws of Fla.; *Florida Rules of Criminal Procedure re: Sentencing Guidelines (Rules 3.701 & 3.988)*, 522 So.2d 374 (Fla.1988), and defendant's permitted range was 12 to 40 years. Since the trial court had previously imposed a departure sentence of life imprisonment, it is abundantly clear that on remand the trial court desired to impose the maximum guidelines sentence. Accordingly, had the trial court been correctly informed about the defendant's guidelines range, clearly the trial court would have imposed a 40-year sentence on counts 2 and 3. On count 1 the legal maximum was 30 years.

211 So.3d 989
Supreme Court of Florida.

José MARTINEZ, Petitioner,
v.
STATE of Florida, Respondent.

No. SC15-1620
|
[February 23, 2017]

Synopsis

Background: Following affirmance of defendant's conviction for robbery with a firearm and sentence on direct appeal, defendant filed motion to correct illegal sentence, alleging that his ten-year mandatory minimum sentence was illegal because the information was not sufficient to place him on notice that he could face enhanced sentence based on actual possession of firearm. The Circuit Court, 19th Judicial Circuit, St. Lucie County, Robert R. Makemson, J., denied motion. Defendant appealed. The District Court of Appeal, May, J., 169 So.3d 170, affirmed. Defendant applied for review, which was granted.

[Holding:] The Supreme Court, Polston, J., held that alleged defect in information, which purportedly deprived defendant of his due process right to notice of potential enhanced sentence, did not fall within the narrow class of sentencing errors subject to correction on motion to correct illegal sentence.

Approving decision.

West Headnotes (4)

- [1] **Criminal Law** \Leftrightarrow Review De Novo
Whether a claim of error may be raised in a motion to correct illegal sentence is a pure question of law subject to de novo review. Fla. R. Crim. P. 3.800(a).

7 Cases that cite this headnote

- [2] **Sentencing and Punishment** \Leftrightarrow Scope and purpose of remedy

The intent of rule allowing for motions to correct an illegal sentence is to balance the need for finality of convictions and sentences with the goal of ensuring that criminal defendants do not serve sentences imposed contrary to the requirements of law. Fla. R. Crim. P. 3.800(a)(1).

2 Cases that cite this headnote

- [3] **Sentencing and Punishment** \Leftrightarrow Illegal sentence

Sentencing and Punishment \Leftrightarrow Punishment unauthorized by statute or guideline

A sentence that patently fails to comport with statutory or constitutional limitations is by definition an "illegal sentence" within meaning of rule allowing motions to correct an illegal sentence. Fla. R. Crim. P. 3.800(a).

8 Cases that cite this headnote

- [4] **Sentencing and Punishment** \Leftrightarrow Illegal sentence

Alleged defect in information charging defendant with robbery with firearm, which purportedly deprived defendant of his due process right to notice that he could face enhanced sentence based on actual possession of firearm, did not fall within the narrow class of sentencing errors subject to correction on motion to correct illegal sentence; defendant did not argue that trial court lacked authority to impose sentence, that his sentence exceeded the maximum for armed robbery, or that he did not meet criteria needed to impose sentence based on actual possession of firearm, but defendant challenged the procedure that led to his sentence. U.S. Const. Amend. 14; Fla. Stat. Ann. § 775.087(2)(a); Fla. R. Crim. P. 3.800(a).

8 Cases that cite this headnote

*990 Application for Review of the Decision of the District Court of Appeal—Direct Conflict of Decisions Fourth District—Case No. 4D14–2076 (St. Lucie County)

Attorneys and Law Firms

Rocco Joseph Carbone, III of Eakin & Sneed, Atlantic Beach, Florida, for Petitioner

Pamela Jo Bondi, Attorney General, Tallahassee, Florida; and Consiglia Terenzio, Bureau Chief, and Richard Chambers Valuntas, Assistant Attorney General, West Palm Beach, Florida, for Respondent

Opinion

POLSTON, J.

Jose Martinez seeks review of the decision of the Fourth District Court of Appeal in *Martinez v. State*, 169 So.3d 170 (Fla. 4th DCA 2015).¹ For the reasons expressed below, we approve the Fourth District's holding that the alleged defect in the charging document in this case does not constitute an illegal sentence subject to correction under Florida Rule of Criminal Procedure 3.800(a).

BACKGROUND

In 2000, Martinez was charged by information with one count of robbery with a firearm. The State alleged in the information that Martinez “carried” the firearm during the commission of the offense in violation of section 812.13(2)(a), Florida Statutes (1999).² Following a jury trial, Martinez was found guilty as charged. In response to a special interrogatory, the jury also found that Martinez did “actually possess” a firearm during the robbery. The trial court sentenced Martinez to 25 years in prison and, based on the jury finding of actual possession, imposed a 10–year mandatory minimum sentence pursuant to section 775.087(2)(a)1., Florida Statutes (1999).³ In 2001, the Fourth District *991 affirmed Martinez's conviction and sentence on direct appeal. *Martinez v. State*, 801 So.2d 944 (Fla. 4th DCA 2001).

In March 2014, Martinez filed a rule 3.800(a) motion to correct illegal sentence in which he argued that his 10–year mandatory minimum sentence was illegal because the allegation in the information that he carried a firearm was not sufficient to place him on notice that he was subject to an

enhanced sentence based on actual possession of a firearm. The circuit court denied the motion, and Martinez appealed. The Fourth District affirmed the denial of Martinez's motion, holding that the alleged charging defect in this case did not “result[] in an illegal sentence subject to correction at any time under Rule 3.800(a).” *Martinez*, 169 So.3d at 172. The Fourth District reasoned that Martinez waived any challenge to the sufficiency of the information or the imposition of a mandatory minimum sentence because these issues were not raised at trial or on direct appeal and, therefore, Martinez could not raise them for the first time more than a decade later in a rule 3.800(a) motion. *Id.*

ANALYSIS

[1] Martinez argues that his 10–year mandatory minimum sentence should be vacated because the charging document in this case did not provide him with sufficient notice of the potential punishment he faced. He contends that this alleged error constitutes the type of illegal sentence that is subject to correction under rule 3.800(a). We disagree.⁴

[2] Pursuant to the rules of criminal procedure, a court may at any time correct an “illegal sentence” when the pertinent court records demonstrate on their face that a defendant is entitled to relief. Fla. R. Crim. P. 3.800(a)(1); see also *Carter v. State*, 786 So.2d 1173, 1176 (Fla. 2001) (“[R]ule 3.800(a) vests trial courts with the broad authority to correct an illegal sentence without imposing a time limitation on the ability of defendants to seek relief.”). “The intent of rule 3.800(a) is ‘to balance the need for finality of convictions and sentences with the goal of ensuring that criminal defendants do not serve sentences imposed contrary to the requirements of law.’” *Plott v. State*, 148 So.3d 90, 93 (Fla. 2014) (quoting *Carter*, 786 So.2d at 1176).

[3] Noting that the term “illegal sentence” is not defined in the rule, we have held that to be subject to correction under rule 3.800(a) a sentence must be “one that no judge under the entire body of sentencing laws could possibly impose.” *Wright v. State*, 911 So.2d 81, 83 (Fla. 2005) (citing *Carter*, 786 So.2d at 1178). Put another way, “[a] sentence that patently fails to comport with statutory or constitutional limitations is by definition ‘illegal.’” *Plott*, 148 So.3d at 94 (alteration in original) (quoting *State v. Mancino*, 714 So.2d 429, 433 (Fla. 1998)).

We have recognized that few claims raised under rule 3.800(a) “come within the illegality contemplated by the rule.” *Wright*, 911 So.2d at 83. For example, in *Wright*, we held that a trial court’s failure to provide written reasons for retaining jurisdiction over a defendant’s sentence did not constitute an illegal sentence subject to correction under the rule. *Id.* at 82. We explained that while the defendant was entitled to challenge this technical sentencing error on direct appeal, he could not do so in a rule 3.800(a) motion because the *992 error was not one involving “a court’s patent lack of authority or jurisdiction, a violation of the sentencing maximums provided by the Legislature, or a violation of some other fundamental right resulting in a person’s wrongful imprisonment.” *Id.* at 84. By comparison, we have held that a sentence that has been unconstitutionally enhanced in violation of the double jeopardy clause is illegal and, therefore, may be corrected under rule 3.800(a). *Hopping v. State*, 708 So.2d 263, 265 (Fla. 1998).

[4] Here, Martinez has not demonstrated that the alleged error in the information charging him with robbery while he “carried” a firearm falls within the narrow class of sentencing errors subject to correction under rule 3.800(a). In his motion to correct illegal sentence, Martinez did not argue that the trial court lacked authority or jurisdiction to impose a 10-year mandatory minimum sentence or that his sentence exceeded the statutory maximum for armed robbery. *Cf. Mancino* 714 So.2d at 433 (“[A] sentence that does not mandate credit for time served would be illegal since a trial court has no discretion to impose a sentence without crediting a defendant with time served.”); *Davis v. State*, 661 So.2d 1193, 1196 (Fla. 1995) (defining an illegal sentence as “one that exceeds the maximum period set forth by law for a particular offense without regard to the guidelines”). Nor did Martinez contend that he did not meet the statutory criteria needed to impose a 10–20–Life mandatory minimum sentence based on actual possession of a firearm. *Cf. Saintelien*, 990 So.2d at 497 (holding that rule 3.800(a) may be used to correct an allegedly erroneous sexual predator designation where it is apparent from the face of the record that the defendant did not meet the criteria for such a designation); *Boyer v. State*, 797 So.2d 1246, 1247 (Fla. 2001) (holding that “where the requisite predicate felonies essential to qualify a defendant for habitualization do not exist as a matter of law and that error is apparent from the face of the record, rule 3.800(a) can be used to correct the resulting habitual offender sentence”).

Instead, Martinez challenged the procedure that led to the imposition of his mandatory minimum sentence by arguing that he was deprived of his due process right to notice of the potential punishment he faced. Such a challenge, however, is not cognizable in a rule 3.800(a) motion. In a factually similar case, the Second District held that a defendant’s allegation that he did not receive notice of the state’s intent to seek a habitual offender sentence enhancement was not the proper subject of a motion to correct illegal sentence. *Judge v. State*, 596 So.2d 73, 77–79 (Fla. 2d DCA 1992) (on rehearing en banc). In reaching this conclusion, the Second District explained that rule 3.800(a) “is not a vehicle designed to reexamine whether the procedure employed to impose the punishment comported with statutory law and due process” but rather it is “concerned primarily with whether the terms and conditions of the punishment for a particular offense are permissible as a matter of law.” *Id.* at 77; *see also Boyer*, 797 So.2d at 1249 (approving *Judge*’s explanation of the scope of rule 3.800(a)); *Ives v. State*, 993 So.2d 117, 120 (Fla. 4th DCA 2008) (“A deficiency merely in the procedure employed, where the movant actually qualifies for an enhanced sentence, does not result in an illegal sentence.”).

Accordingly, because Martinez’s particular challenge to his sentence is not cognizable under rule 3.800(a), the Fourth District properly affirmed the denial of Martinez’s motion to correct illegal sentence.

CONCLUSION

For the reasons expressed above, we approve the Fourth District’s decision to *993 affirm the denial of Martinez’s motion to correct illegal sentence on the basis that the alleged defect in the charging document in this case does not result in an illegal sentence subject to correction under rule 3.800(a).

It is so ordered.

LABARGA, C.J., and PARIENTE, LEWIS, QUINCE, and CANADY, JJ., concur.

LAWSON, J., did not participate.

All Citations

211 So.3d 989, 42 Fla. L. Weekly S209

Footnotes

- 1 We have jurisdiction. See art. V, § 3(b)(3), Fla. Const.
- 2 The crime of robbery is reclassified from a second degree felony to a first degree felony punishable by life in prison “[i]f in the course of committing the robbery the offender carried a firearm or other deadly weapon.” § 812.13(2)(a), Fla. Stat. (1999).
- 3 As part of the 10–20–Life sentencing scheme, this statute provides that an offender who “actually possessed” a firearm during the commission of a robbery (or other enumerated offense) must be sentenced to a minimum term of 10 years in prison. § 775.087(2)(a)1., Fla. Stat. (1999).
- 4 Whether a claim of error may be raised in a motion to correct illegal sentence under rule 3.800(a) is a pure question of law subject to de novo review. See *Saintelien v. State*, 990 So.2d 494, 496 (Fla. 2008).

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1 THE COURT: Good luck to you, sir. Have a
2 seat.

3 MR. BATISTA: I believe you wanted to
4 inquire about the plea offer. The State has
5 not made one, or has the State made one?

6 THE COURT: Well, is your client
7 interested in one? That's why I wanted to
8 colloquy him.

9 MR. BATISTA: No. He told me that, no. He
10 will not -- he is not taking any plea,
11 whatsoever.

12 THE COURT: Is that correct, Mr. Brown?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Regardless of what the State
15 is offering, you understand you are looking
16 at -- you have three cases. You are looking at
17 up to life in the State Penitentiary, combined
18 on all 3.

19 You understand all that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: If the jury comes back with
22 Armed Robbery, you are looking at up to life.
23 If the jury comes back with strong armed, the
24 max is 15 and Canibus Possession is 5 which, is
25 the guidelines.

1 MS. CORONA: Judge, actually it's mandatory
2 life, if they come back with the Armed Robbery
3 because he qualifies as a PERP.

4 THE COURT: As a PERP, you are Prison
5 Releasee Reoffender. If they come back with
6 Armed Robbery, you are looking at mandatory
7 life.

8 Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You are not interested in any
11 offers from the State. You want to go to trial
12 on both of these case?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Okay. Sir, good luck.

15 MR. BATISTA: Is it 10 challenges per side
16 since it's a life felony?

17 THE COURT: You could sit down folks. As
18 you are coming in, make yourself comfortable.

19 (Thereupon, the Prospective Jury Panel
20 entered the courtroom at 11:45 a.m. after which
21 the following proceedings were held.)

22 THE COURT: All present, counsel. Please
23 be seated.

24 Good morning, ladies and gentlemen. How are
25 we doing today? Welcome to the Richard E.

817 So.2d 934 (Mem)
District Court of Appeal of Florida,
Third District.

Terrance COOPER, Appellant,
v.
The STATE of Florida, Appellee.

No. 3D02-825.

|
May 15, 2002.

|
Rehearing Denied June 14, 2002.

An appeal under Fla. R.App. P. 9.141(b)(2) from the Circuit
Court for Dade County, Roberto M. Pineiro, Judge.

Attorneys and Law Firms

Terrance Cooper, in proper person.

Robert A. Butterworth, Attorney General, for appellee.

Before COPE, FLETCHER and SHEVIN, JJ.

Opinion

PER CURIAM.

Terrance Cooper appeals an order denying his motion to correct illegal sentence. First, defendant-appellant Cooper claims that the habitualization notice filed in his case was not sufficiently specific in indicating what portion of the habitual offender statute the State intended to pursue. A notice deficiency of this type does not render a sentence "illegal," for purposes of Florida Rule of Criminal Procedure 3.800(a). Such a claim must be raised by motion for postconviction relief under Florida Rule of Criminal Procedure 3.850. See *Brown v. State*, 813 So.2d 132 (Fla. 5th DCA 2002). Under Rule 3.850, this claim is time-barred.

Assuming for purposes of discussion that there were no procedural bar, the claim is in any event without merit. See *Sampson v. State*, 798 So.2d 824 (Fla. 3d DCA 2001).

Affirmed.

All Citations

817 So.2d 934 (Mem), 27 Fla. L. Weekly D1135

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**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

STATE OF FLORIDA,
Plaintiff,

vs.

TERRELL BROWN,
Defendant

Case No. F05-20333 & F05-20452
Section No. 070
Judge Ramiro Areces

ORDER DENYING MOTION TO CORRECT ILLEGAL SENTENCE

THIS CAUSE having come before this Court on the defendant's Motion to Correct Illegal Sentence and this Court having reviewed the motion, the State's response thereto, the court files and records in this case, and being otherwise fully advised in the premises therein, hereby denies the defendant's Motion on the following grounds:

The defendant claims that the verdict form in this case did not make a sufficient finding that he was armed with a firearm in order to reclassify the degree of his robbery conviction to a first-degree felony punishable by life in prison. This claim is not properly the subject of a Motion to Correct Illegal Sentence under Florida Rule of Criminal Procedure 3.800 (a). *Chanquet v. State*, 646 So.2d 834 (Fla. 3d DCA 1994).

The defendant's second claim is that the Information, by not containing a subparagraph to Florida Statute 775.087, is insufficient to invoke the 10-20-Life firearm minimum mandatory penalties. This claim is also not properly the subject of a Motion to Correct Illegal Sentence under Florida Rule of Criminal Procedure 3.800 (a). *Martinez v. State*, 211 So.3d 989 (Fla. 2017). Of the cases cited by the defendant in support of his claim, none of them are illegal sentence proceedings under Rule 3.800 (a).

The defendant's third claim is that he was not aware of his status as a Habitual Violent Offender and Prison Releasee Reoffender until after he was found guilty at trial. The defendant's claim is refuted by the record. First, the docket entry attached to the State's response shows that a notice to seek an enhanced penalty, as well as a PERR notice was filed on July 25, 2005. Additionally, pages 59 and 60 of the trial transcript show that the defendant was colloquied concerning his potential sentencing exposure shortly before the trial commenced. Lastly, a notice defect does not render a sentence illegal. *Cooper v. State*, 817 So.2d 934 (Fla. 3d DCA 2002).

ORDERED AND ADJUDGED that the Defendant's Motion To Correct Illegal Sentence is hereby DENIED.

The defendant is hereby notified that he has the right to appeal this order to the District Court of Appeal of Florida, Third District within thirty (30) days of the signing and filing of this order.

In the event that the defendant takes an appeal of this order, the Clerk of this Court is hereby ordered to transport, as part of this order, to the appellate court the following:

1. The Defendant's Motion To Correct Illegal Sentence.
2. The State's response.
3. This order.

DONE AND ORDERED at Miami, Miami-Dade County, Florida, this the _____ day of November, 2023.

RAMIRO ARECES
CIRCUIT JUDGE

cc: Terrell Brown
State Attorney's Office

lec 300
lec 200

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

STATE OF FLORIDA,

CASE NO. F05-20333
F05-20452

v.

CRIMINAL DIVISION

TERRELL BROWN,
Defendant.

FILED
JAN 19 2024
CLERK

RENEE HALL 1635

**ORDER DENYING DEFENDANT'S MOTION TO
CORRECT ILLEGAL SENTENCE**

THIS MATTER having come before the Court on Defendant's Motion to Correct Illegal Sentence (the "Motion") and this Court having read the Motion, read the State's Response in Opposition, examined the case file and being fully advised in the premises, it is hereby,

ORDERED AND ADJUDGED:

Defendant's Motion is DENIED.

Rule 3.800(a) provides a court "may at any time correct an illegal sentence imposed by it...when it is affirmatively alleged that the court records demonstrate on their face an entitlement to that relief." Fla. R. Crim. P. 3.800(a). Florida's Third District Court of Appeal has held a "Rule 3.800(a) motion to correct illegal sentence is intended to address cases in which the sentence imposes a kind of punishment that no judge under the entire body of sentencing statutes could possibly inflict under any set of factual circumstances." *Burks v. State*, 237 So. 3d 1060, 1062 (Fla. 3d DCA 2017). The Florida Supreme Court has, moreover, "recognized that few claims raised under 3.800(a) come within the illegality

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contemplated by the rule.” *Martinez v. State*, 211 So. 3d 989, 991 (Fla. 2017). This case is not one of those few claims that come within the illegality contemplated by the rule.

In this case, the records do not on their face reflect any entitlement to relief. On the contrary, a jury found Defendant guilty on one count of robbery with a firearm and one count of robbery. Defendant was subsequently sentenced to thirty years as a habitual violent felony offender on the robbery and to life imprisonment on the robbery with a firearm. Defendant was also sentenced to a ten-year minimum mandatory for the actual possession of the firearm.

Defendant’s sentence is not “a kind of punishment that no judge under the entire body of sentencing statutes could possibly inflict under any set of factual circumstances.” *Burks*, 237 So. 3d at 1062. His claims concerning reclassification, actual possession and knowledge of his exposure to enhanced penalties are without merit and/or not cognizable under Rule 3.800(a). *See generally Martinez v. State*, 169 So. 3d 170 (Fla. 4th DCA 2015); *Martinez v. State*, 211 So. 3d 989 (Fla. 2017); *Chanquet v. State*, 646 So. 2d 834 (Fla. 3d DCA 1994); *Cooper v. State*, 817 So. 2d 934 (Fla. 3d DCA 2002) (Mem.).

The Clerk of Court is directed to forward a copy of this Order to Defendant.

Defendant is hereby notified that he has the right to appeal this Order to the Third District Court of Appeal within thirty (30) days of the signing and filing of this Order. If Defendant takes an appeal of this Order, the Clerk of Court is hereby

Ordered to transport the following documents, with all their attachments, to the appellate court:

1. Defendant's Motion to Correct Illegal Sentence;
2. The State's Response in Opposition;
3. This Order and any attachments.

DONE AND ORDERED in Miami-Dade County, Florida on this 18th day of January 2024.



RAMIRO C. ARECES
CIRCUIT COURT JUDGE

A true and correct copy of this order has been furnished to
DEFENDANT, Terrell Brown by mail this 25th day
of January, 20 24.

Leis C. O. 01/15/2024
Deputy Clerk
Miami-Dade County, Florida
Hand 7017

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA.
 IN THE COUNTY COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA.

DIVISION <input checked="" type="checkbox"/> CRIMINAL <input type="checkbox"/> OTHER	CHARGES/COSTS/FEEES	CASE NUMBER F05-20333
--	---------------------	--------------------------

THE STATE OF FLORIDA PLAINTIFF	VS. TERRELL DONNELL BROWN DEFENDANT	FILED FOR RECORD 2008 JAN -9 PM 2:49 CLERK OF CIRCUIT COURT MIAMI-DADE COUNTY, FLORIDA
---------------------------------------	--	---

The Defendant is hereby ordered to pay the following sum if checked:

- Fifty dollars (\$50.00) pursuant to F.S. 938.03 (Crimes Compensation Trust Fund).
- Five dollars (\$5.00) as a court cost pursuant to F.S. 938.01
 (1) \$3.00, F.S. 938.15 \$2.00 (Criminal Justice Trust & Education Funds).
- A fine in the sum of \$_____ pursuant to F.S. 775.0835.
 (This provision refers to the optional fine for the Crimes Compensation Trust Fund, and is not applicable unless checked and completed. Fines imposed as a part of a sentence to F.S. 775.083 are to be recorded on the Sentence page(s).
- Twenty dollars (\$20.00) pursuant to F.S. 938.09 (Handicapped and Elderly Security Assistance Trust Fund).
- A sum of \$_____ pursuant to 938.05 (Local Government Criminal Justice Trust Fund).
- Restitution in accordance with attached order.
- Three dollars (\$3.00) Juvenile Assessment Center pursuant to Dade County Ordinance 96-182, F.S. incorporating F.S. 938.17.
- A sum of \$_____ pursuant to F.S. 27.52 (Public Defender Application Fee).
- A sum of \$_____ pursuant to F.S. 939.18 (Court Facilities Cost).
- A sum of \$_____ pursuant to F.S. 938.06 (Crime Stopper's Programs).
- A sum of \$_____ pursuant to F.S. 938.19 (Teen Courts).
- A sum of \$_____ pursuant to F.S. 775.083 (Crime Prevention Programs).

Other COURT COST DEFERRED UNTIL SENTENCING

DONE AND ORDERED in Open Court in Dade County, Florida this 12TH day of OCTOBER, 20 08

Peter R. Lopez
 JUDGE PETER R. LOPEZ

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA
 IN THE COUNTY COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

DIVISION
 CRIMINAL
 OTHER

FINGERPRINTS OF DEFENDANT

THE STATE OF FLORIDA VS.
Terrell Brown
PLAINTIFF DEFENDANT

CASE NUMBER: #05-20333

I herby certify that the foregoing fingerprints on this judgment are the fingerprints of the defendant named above, and that they were placed thereon by said defendant in my presence, in open court, on this date and that the defendant provided the below Social Security Number or was unable to provide said number as indicated.











Dep of C & R

Fingerprints taken by: *Det J Torres*
Name Title

CLOCK IN

FILE
OCT 12 2008
CLERK

FINGERPRINTS OF DEFENDANT

1. R. Thumb	2. R. Index	3. R. Middle	4. R. Ring	5. R. Little
				
1. L. Thumb	2. L. Index	3. L. Middle	4. L. Ring	5. L. Little
				

Social Security Number of Defendant _____

DONE AND ORDERED in Open Court in Miami-Dade County, Florida this 12 day of OCT 2008, 20

Peter R. Lopez
JUDGE PETER R. LOPEZ

Page 3 of 3

<u>DIVISION</u>	<u>SENTENCE</u>
<input checked="" type="checkbox"/> CRIMINAL	

AS TO COUNT: 1

<u>PLAINTIFF(S)</u>	<u>VS. DEFENDANT(S)</u>
THE STATE OF FLORIDA	TERRELL DONNELL BROWN

CASE NUMBER: F05-020333	ORBS NUMBER _____
-------------------------	-------------------

AKA: T Terrell Brown, Terrel Brown, Terrell D Brown, Terryll D Brown, Terryll D Brown, Terryll Donnell Brown, James Butler

<p>The Defendant, being personally before this Court, accompanied by his/her attorney(s): JOSE R E BATISTA, PA and having been adjudicated guilty herein, and the Court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why he/she should not be sentenced as provided by law, and no cause having been shown:</p>	<p>CLOCK IN 2007 JAN -9 PM 2:49 FILED FOR RECORD CLERK, CIRCUIT COURT MIAMI-DADE COUNTY FLORIDA</p>
--	---

And the court having on 10/12/06 deferred imposition of sentence until this date.

IT IS THE SENTENCE OF THE COURT that the defendant is hereby:

Is hereby committed to the custody of the Florida Department of Corrections..

TO BE IMPRISONED:

For a term of 30.00 Year(s).

IN REF: Defendant

TERRELL DONNELL BROWN

SPECIAL PROVISIONS

CASE NUMBER: F05-020333

AS TO COUNT: 1

By appropriate notation, the following provisions apply to the sentence imposed:

MANDATORY / MINIMUM PROVISIONS:

<u>CATEGORY</u>	<u>SPECIAL PROVISION DESCRIPTION</u>	<u>SPECIFICATION</u>
Felony Offender	The defendant is adjudicated a habitual violent felony offender and has been sentenced to an extended term in accordance with the provisions of Florida Statute 775.084(4). A minimum term as specified above must be served prior to release. The requisite findings by the court are set forth in a separate order or stated on the record in open court.	10 YEARS MINIMUM MANDATORY

IN REF: Defendant
TERRELL DONNELL BROWN

OTHER PROVISIONS

CASE NUMBER: F05-020333

<u>CATEGORY</u>	<u>OTHER PROVISION DESCRIPTION</u>	<u>SPECIFICATION</u>
Jail Credit	It is further ordered that the Defendant shall be allowed a total of the specified time as credit for time incarcerated prior to imposition of this sentence.	536 DAYS

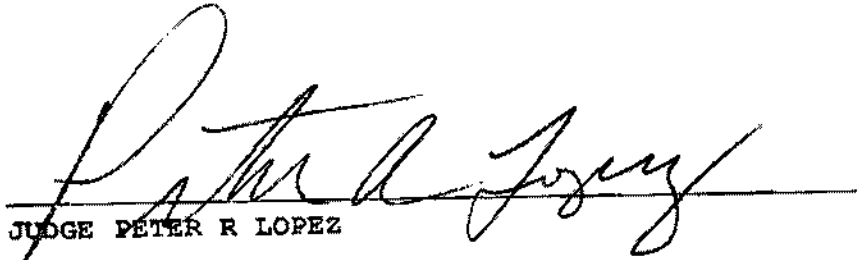
In the event the above sentence is to the Department of Corrections, the Sheriff of Dade County, Florida, is hereby ordered and directed to deliver the defendant to the Department of Corrections at the facility designated by the Department together with a copy of this Judgment and Sentence and any other documents specified by Florida Statutes.

The defendant in Open Court was advised of his right to appeal from this sentence by filing notice of appeal within thirty days from this date with the Clerk of this Court, and the defendant's right to the assistance of counsel in taking said appeal at the expense of the State upon showing indigence.

In imposing the above sentence, the Court further recommends:

COURT COST TO BE IMPOSED PURSUANT TO (CCC) F.S. 938.03(4)--\$50.00, (LETTF) F.S. 938.01(1)--\$3.00, (LFCJTF) F.S. 938.05(1)--\$200.00, (P.D. APPL. FEE) F.S. 27.52(2)--\$40.00, (TEEN COURTS) F.S. 938.19--\$3.00, (PREV. PROG.) F.S. 775.083(2)--\$50.00, (LETTF) F.S. 938.15--\$2.00, (CT. ORD. FOR ADD'L COURT COST) F.S. 939.185(1) (A)--\$65.00, (SURCHARGE AS ADOPTED BY ORDINANCE 05-123) F.S. 939.185(1) (B)--\$85.00 TOTAL - \$498.00

DONE AND ORDERED in Open Court in Miami-Dade County, Florida this 13th day of December, 2006.


JUDGE PETER R. LOPEZ

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA.
 IN THE COUNTY COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA.

DIVISION
 CRIMINAL
 OTHER

CHARGES/COSTS/FEEES

CASE NUMBER

F05-2048

2007 JAN 9 PM 2:49
 FILED FOR RECORD
 CLERK OF COURT
 11th JUDICIAL CIRCUIT
 IN AND FOR MIAMI-DADE COUNTY
 FLORIDA

THE STATE OF FLORIDA

VS. TERRELL D. BROWN

PLAINTIFF

DEFENDANT

The Defendant is hereby ordered to pay the following sum if checked:

- Fifty dollars (\$50.00) pursuant to F.S. 938.03 (Crimes Compensation Trust Fund).
- Five dollars (\$5.00) as a court cost pursuant to F.S. 938.01
 (1) \$3.00, F.S. 938.15 \$2.00 (Criminal Justice Trust & Education Funds).
- A fine in the sum of \$_____ pursuant to F.S. 775.0835.
 (This provision refers to the optional fine for the Crimes Compensation Trust Fund, and is not applicable unless checked and completed. Fines imposed as a part of a sentence to F.S. 775.083 are to be recorded on the Sentence page(s).
- Twenty dollars (\$20.00) pursuant to F.S. 938.09 (Handicapped and Elderly Security Assistance Trust Fund).
- A sum of \$_____ pursuant to 938.05 (Local Government Criminal Justice Trust Fund).
- Restitution in accordance with attached order.
- Three dollars (\$3.00) Juvenile Assessment Center pursuant to Dade County Ordinance 96-182, F.S. incorporating F.S. 938.17.
- A sum of \$_____ pursuant to F.S. 27.52 (Public Defender Application Fee).
- A sum of \$_____ pursuant to F.S. 939.18 (Court Facilities Cost).
- A sum of \$_____ pursuant to F.S. 938.06 (Crime Stopper's Programs).
- A sum of \$_____ pursuant to F.S. 938.19 (Teen Courts).
- A sum of \$_____ pursuant to F.S. 775.083 (Crime Prevention Programs).

Other COURT COST DEFERRED UNTIL SENTENCING

DONE AND ORDERED in Open Court in Dade County, Florida this 12TH day of OCTOBER, 2006


 JUDGE PETER R. LOPEZ

Clerk's web address: www.miami-dadeclerk.com

Page 2 of 3

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA
 IN THE COUNTY COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

DIVISION

CRIMINAL
 OTHER

FINGERPRINTS OF DEFENDANT

THE STATE OF FLORIDA VS.

Terrell Brown

PLAINTIFF

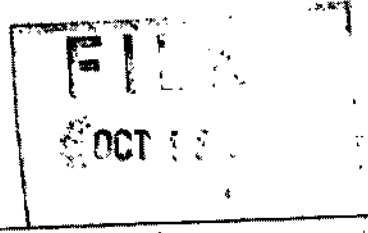
DEFENDANT

CASE NUMBER: *FOS-20452*

CLOCK IN

I hereby certify that the foregoing fingerprints on this judgment are the fingerprints of the defendant named above, and that they were placed thereon by said defendant in my presence, in open court, on this date and that the defendant provided the below Social Security Number or was unable to provide said number as indicated.

Dept of Cr



Fingerprints taken by: *Det Tomas Coy*
Name Title

FINGERPRINTS OF DEFENDANT

1. R. Thumb	2. R. Index	3. R. Middle	4. R. Ring	5. R. Little
1. L. Thumb	2. L. Index	3. L. Middle	4. L. Ring	5. L. Little

Social Security Number of Defendant _____ day of OCT 12 2006

DONE AND ORDERED in Open Court in Miami-Dade County, Florida this _____ day of _____, 2006

Peter K. Lopez
JUDGE PETER K. LOPEZ

SENTENCE

DIVISION

CRIMINAL

AS TO COUNT: 1

PLAINTIFF(S)

THE STATE OF FLORIDA

VS. DEFENDANT(S)

TERRELL DONNELL BROWN

CASE NUMBER: F05-020452

COURT NUMBER

AKA: T Terrell Brown, Terrel Brown, Terrell D Brown, Terryll D Brown, Terryll D Brown, Terryll Donnell Brown, James Butler

The Defendant, being personally before this Court, accompanied by his/her attorney(s) JOSE R E BATISTA, PA and having been adjudicated guilty herein, and the Court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why he/she should not be sentenced as provided by law, and no cause having been shown:

FILED FOR RECORD
2007 JAN -9 PM 2:49
CLERK OF COURT
MIAMI-DADE COUNTY
CIRCUIT CLERK

And the court having on 10/12/06 deferred imposition of sentence until this date.

IT IS THE SENTENCE OF THE COURT that the defendant is hereby:

Is hereby committed to the custody of the Florida Department of Corrections..

TO BE IMPRISONED:

For a term of Natural Life.

✓

IN REF: Defendant

TERRELL DONNELL BROWN

SPECIAL PROVISIONS

CASE NUMBER: F05-020452

AS TO COUNT: 1

By appropriate notation, the following provisions apply to the sentence imposed:

MANDATORY / MINIMUM PROVISIONS:

CATEGORY

SPECIAL PROVISION DESCRIPTION

SPECIFICATION

Firearm

Possession

10 YEARS MINIMUM MANDATORY,
UNDER 10/20/LIFE
CONCURRENT WITH MINIMUM
MANDATORIES IN F05-20333

Firearm

It is further ordered that the specified mandatory minimum imprisonment provisions of Florida Statute 775.087(2) are hereby imposed for the sentence specified in this count.

Felony Offender

The defendant is adjudicated a habitual violent felony offender and has been sentenced to an extended term in accordance with the provisions of Florida Statute 775.084(4). A minimum term as specified above must be served prior to release. The requisite findings by the court are set forth in a separate order or stated on the record in open court.

IN RE: Defendant
TERRELL DONNELL BROWN

OTHER PROVISIONS

CASE NUMBER: F05-020452

<u>CATEGORY</u>	<u>OTHER PROVISION DESCRIPTION</u>	<u>SPECIFICATION</u>
Jail Credit	It is further ordered that the Defendant shall be allowed a total of the specified time as credit for time incarcerated prior to imposition of this sentence.	535 DAYS
Consecutive/concurrent as to Other Convictions	It is further ordered that the composite term of all sentences imposed for the counts specified in this order shall run as indicated with the following:	CONCURRENT WITH F05-20333

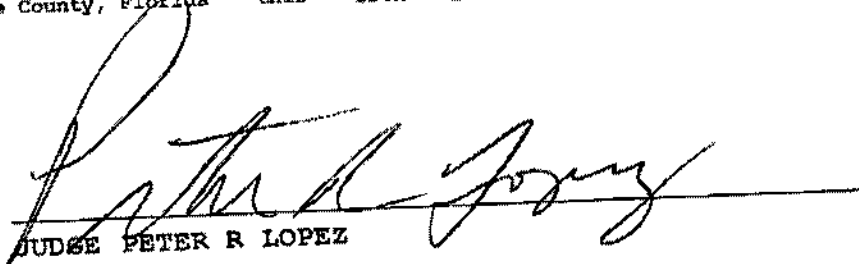
In the event the above sentence is to the Department of Corrections, the Sheriff of Dade County, Florida, is hereby ordered and directed to deliver the defendant to the Department of Corrections at the facility designated by the Department together with a copy of this Judgment and Sentence and any other documents specified by Florida Statutes.

The defendant in Open Court was advised of his right to appeal from this sentence by filing notice of appeal within thirty days from this date with the Clerk of this Court, and the defendant's right to the assistance of counsel in taking said appeal at the expense of the State upon showing indigence.

In imposing the above sentence, the Court further recommends:

COURT COSTS TO BE IMPOSED PURSUANT TO (CCC)F.S. 938.03(4)--\$50.00, (LETTF)F.S. 938.01(1)--\$3.00, (LFCJTF)F.S. 938.05(1)--\$200.00, (P.D. APPL. FEE)F.S. 27.52(2)--\$40.00, (TEEN COURT) F.S. 938.19--\$3.00, (PREV. FROG.)F.S.775.083(2)--\$50.00, (LETTF)F.S. 938.15--\$2.00, (CT. ORD. FOR ADD'L COURT COST)F.S. 939.185(1) (A)--\$65.00, (SURCHARGE AS ADOPTED BY ORDINANCE 05-123)F.S. 939.185(1) (B)--\$85.00 TOTAL - \$498.00

DONE AND ORDERED in Open Court in Miami-Dade County, Florida this 13th day of December, 2006.


JUDGE PETER R LOPEZ

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN
AND FOR MIAMI-DADE COUNTY, FLORID

THE STATE OF FLORIDA,

Plaintiff,

VS.

TERRELL BROWN,
Defendant

CRIMINAL DIVISION

CASE NO: F05-20333, F05-20452

VERDICT

FILED
OCT 12 2006
CLERK

We, the jury, find as follows as to Count 1 of the Information:
(Check a or b)

(a) The defendant is guilty of robbery. (April 6, 2005), and the defendant
(check one)

possessed a firearm
 did not possess a firearm

(b) The defendant is not guilty.

We, the jury, find as follows as to Count 2 of the Information:
(Check a or b)

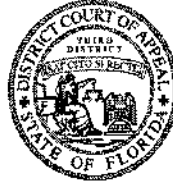
(a) The defendant is guilty of robbery. (April 17, 2005)

(b) The defendant is not guilty.

SO SAY WE ALL, this 12 day of October, 2006, at Miami-Dade County,
Florida.


Foreperson

THOMAS LOGUE
CHIEF JUDGE
KEVIN EMAS
IVAN. F. FERNANDEZ
EDWIN A. SCALES, III
NORMA S. LINDSEY
ERIC W. HENDON
BRONWYN C. MILLER
MONICA GORDO
FLEUR J. LOBREE
ALEXANDER S. BOKOR
JUDGES



DISTRICT COURT OF APPEAL
THIRD DISTRICT
2001 S.W.117 AVENUE
MIAMI, FLORIDA 33175-1716

TELEPHONE (305) 229-3200

MERCEDES M. PRIETO
CLERK

VERONICA ANTONOFF
MARSHAL

MELISSA GULLA
CHIEF DEPUTY CLERK

MARIA E. MIHAIC
CHIEF DEPUTY MARSHAL

ACKNOWLEDGMENT OF NEW CASE

DATE: February 01, 2024

STYLE: Terrell D. Brown v. The State of Florida

3DCA Case No.: 3D2024-0212

The Third District Court of Appeal has received a Notice of Appeal reflecting a filing date of: February 1, 2024.

The County of origin is Miami-Dade County.

The lower tribunal case number provided is: F05-20333; F05-20452

Case Type: NOA Final - Circuit Criminal - 3.800 Summary.

The filing fee is: No Fee - Rule 3 Case

The clerk of the lower tribunal shall index and paginate the records and send copies of the index and the record to the parties. See Fla. R. App. P. 9.141(b)(2)(B).

The Third District Court of Appeal's case number must be utilized on all pleadings and correspondence filed in this cause. Moreover, ALL PLEADINGS SIGNED BY AN ATTORNEY MUST INCLUDE THE ATTORNEY'S FLORIDA BAR NUMBER.

Please review and comply with any handouts enclosed with this acknowledgment.

cc: Crim Appeals MIA Attorney General
Terrell Brown
Miami-Dade Clerk
IM

FILED IN 150000
2024 FEB -1 PM 2:15
TW

NOTICE TO ATTORNEYS AND PARTIES

STREET ADDRESS: 2001 S.W. 117th Avenue, Miami, Florida 33175-1716 **TELEPHONE:** 305-229-3200

ON-LINE DOCKET available at www.3dca.flcourts.org

Effective immediately, counsel are required to report to the Court any similar or related cases by filing a NOTICE OF SIMILAR OR RELATED CASE. See AO3D13-06 Re: Notice of Similar or Related Case.
<https://www.3dca.flcourts.org/content/download/430076/file/AO3D13-6.pdf>

All documents filed with the Court must be submitted via the Florida Courts E-Filing Portal, unless a paper filing is authorized. A filer may use the Florida Courts E-Filing Portal for service on opposing counsel when a filing is submitted.

An account is required for filing and can be created at: <https://www.myflcourtagency.com/default.aspx>

ACIS User Manual: The ACIS User Manual and information can be accessed on the Court's website:
<https://3dca.flcourts.gov/>

To access specific areas of the clerk's office, dial the following extensions:

<u>Front Desk & Docketing</u>	Ext. 3248	<u>New Cases/Fees</u>	Ext. 3253 & 3255
<u>Opinions</u>	Ext. 3254	<u>Rehearing/Mandates</u>	Ext. 3266
<u>Scheduling Oral Argument</u>	Ext. 3258	<u>Orders</u>	Ext. 3256

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in proceedings at the Third District Court of Appeal should notify the Marshal, Veronica Antonoff (305)229-3200 or 1-800-955-8771 (TDD) or 1-800-955-8770 (V) via Florida Relay Services.

In order to assist the Court in orderly consideration and disposition of matters under appellate review, compliance with the following is respectfully requested:

NOTICE OF APPEAL: Electronically file the original notice of appeal in the lower tribunal. Pay the filing fee, if required, through the E-Filing Portal, or immediately forward to this Court the \$300.00 filing fee payable to: Clerk, Third District Court of Appeal. There may be an additional fee for the lower tribunal.

ORIGINAL JURISDICTION PETITIONS: Electronically file the original petition with this Court through the E-Filing Portal. Pay the filing fee, if required, through the E-Filing Portal, or immediately forward to this Court the \$300.00 filing fee payable to: Clerk, Third District Court of Appeal.

APPENDIX TO PETITIONS AND BRIEFS: See AO3D13-05, Administrative Order Re: Electronic Filing of Appendices.
<https://3dca.flcourts.gov/content/download/430075/file/AO3D13-5.pdf>

RECORD: When providing directions for inclusion of exhibits in the record on appeal, do not designate any tangible evidence without prior permission of the Court. This applies especially to drugs, firearms, explosives, x-rays and heavy or bulky items such as large maps, photographs and graphs.

NOTICES TO INVOKE DISCRETIONARY REVIEW IN THE SUPREME COURT: Electronically file the original notice with this Court. Immediately forward to the Supreme Court the \$300.00 filing fee payable to the Clerk, Supreme Court of Florida.

PHOTOCOPIES: The photocopying fee is \$1.00 per page. We are unable to provide change so exact cash, law firm check or money order is accepted as payment. Please call ahead to arrange for the court file and/or records to be made available for viewing.

ACKLTRSUM - Rev. 05/2023

Mercedes M. Prieto, Clerk, Third District Court of Appeal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct copy hereof has been furnished by
U.S. Mail on this 29 day of JANUARY, 2024 to: Office of the State
Attorney, KATHERINE FERNANDEZ RUNDLE;
Office of Attorney General, _____.

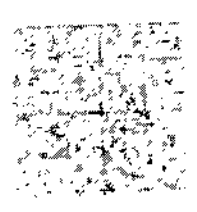
Respectfully Submitted,

/s/ JMB

DC# M19899
Florida State Prison - Main Unit
P.O. Box 800
Raiford, Florida 32083

Terrill Donnell Brown #M17894 K-1361
Florida State Prison
P.O. Box 800
Raiford FL 32083

State of Florida
Department of Corrections



LEGAL MAIL

Thien Annet Court of Appeal
2001 SW 117 Ave
Miami, FL 33175



9317531799 0066



M E M O R A N D U M
RULE 3.800/3.850/3.853

Date: FEBRUARY 5, 2024

To: MERCEDES M. PRIETO
THE CLERK
THIRD DISTRICT COURT OF APPEALS

From: CIRCUIT COURT SECTION
APPEALS UNIT
CLERK OF COURT AND COUNTY CONTROLLER
JUAN FERNANDEZ-BARRUEN
By  

Re: NOTICE OF APPEAL TRANSMITTED TO THIRD DISTRICT COURT OF APPEALS ON A RULE 3.800, OR 3.850, OR 3.853 OF THE FLORIDA RULE OF CRIMINAL PROCEDURES WITHOUT AN EVIDENTIARY HEARING.

DEFENDANT'S NAME: TERRELL D. BROWN

CASE: F05020333; F05020452

Subject: THIS NOTICE OF APPEAL WILL NOT REQUIRE THAT A RECORD ON APPEAL BE ISSUED. THE ONLY DOCUMENTS REQUIRED ARE THOSE BEING TRANSMITTED IN ACCORDANCE WITH RULE 9.141(b)(2) OF THE FLORIDA RULE OF APPELLATE PROCEDURES.

.....
If there are any questions, please feel free to contact Robin Smith at (305) 548-5624 or Nichole Stone at (305) 548-5496.

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA
 IN THE CIRCUIT COURT IN AND FOR DADE COUNTY, FLORIDA

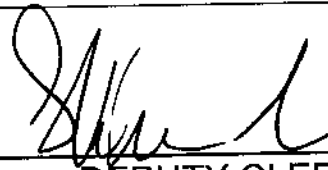

<input checked="" type="checkbox"/> DIVISION <input type="checkbox"/> CRIMINAL <input type="checkbox"/> OTHER	CERTIFICATE OF THE CLERK OF THE COURT	CASE NUMBER(S) F05020333 F05020452
---	--	--

STATE OF FLORIDA COUNTY OF MIAMI-DADE	SS CLOCK IN
---	------------------------

I, **JUAN FERNANDEZ-BARQUIN**, Clerk of the Court and Comptroller Miami-Dade County Circuit and County Courts, **DO HEREBY CERTIFY** that the foregoing pages, numbered 1 to 53 EXCLUSIVE, contain a correct Transcript of the record of the judgment in the case of the State of Florida, Plaintiff, Versus

TERRELL D. BROWN Defendant, numbered F05020333 is true and correct recital and copy of all such instruments and proceedings in said cause as appear from the records and files of my office which appear necessary to be included in the transcript of record-on-appeal in compliance with the directions furnished me. Pages numbered 00 To 00 inclusive, embrace to transcribed notes of the Court Reporter, as made at the (trial hearing) of said cause and certified to me by HIM/HER

IN WITNESS WHERE OF, I have hereunto set my hand and affixed the Seal of the said Circuit Court of the Eleventh Judicial Circuit of Florida at Miami-Dade County, this _____ day of FEBRUARY 5, 2024

JUAN FERNANDEZ-BARQUIN CLERK OF COURT AND COMPTROLLER	BY  DEPUTY CLERK 	FEBRUARY 5, 2024
---	---	------------------