

Third District Court of Appeal
State of Florida, January Term, A.D. 2009

Opinion filed July 1, 2009.
Not final until disposition of timely filed motion for rehearing.

No. 3D08-736
Lower Tribunal No. 90-9210

Kelvin D. Harris,
Petitioner,

vs.

The State of Florida,
Respondent.

A case of original jurisdiction – habeas corpus.

Kelvin D. Harris, in proper person.

Bill McCollum, Attorney General, and Linda Katz, Assistant Attorney General, for respondent.

Before COPE, GERSTEN, and SUAREZ, JJ.

ON MOTION FOR REHEARING

PER CURIAM.

We grant Kelvin D. Harris' ("Harris") motion for rehearing in part, and deny

in part.

Harris asserts that his written sentence on count one for robbery should be corrected to conform to the trial court's oral pronouncement. Harris is correct. The trial court orally sentenced Harris to sixty years in prison on count one. However, the written sentence shows a life sentence on this count.

Accordingly, we grant Harris' petition in part, and remand this cause to the trial court with instructions to correct the written sentence for count one to reflect the oral pronouncement of sixty years. Harris is not entitled to a new sentencing hearing because he is serving a concurrent life sentence on count two for burglary. See Velez v. State, 988 So. 2d 707 (Fla. 3d DCA 2008).

Rehearing granted in part; petition granted in part; remanded with instructions.