

Third District Court of Appeal

State of Florida, July Term, A.D., 2009

Opinion filed October 21, 2009.
Not final until disposition of timely filed motion for rehearing.

Nos. 3D08-1209 & 3D08-1208
Lower Tribunal No. 97-34507-A

Cornelius Nelson,
Appellant,

vs.

The State of Florida,
Appellee.

Appeals under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Miami-Dade County, Stanford Blake and Rosa I. Rodriguez, Judges.

Cornelius Nelson, in proper person.

Bill McCollum, Attorney General, Jill D. Kramer, Assistant Attorney General, for appellee.

Before COPE, GERSTEN, and LAGOA, JJ.

PER CURIAM.

Based upon the State's confession of error, we reverse both the trial court's order denying the defendant's motion to correct illegal sentence, filed pursuant to

Florida Rule of Criminal Procedure 3.800, and the order denying his motion for rehearing.¹ In Nelson v. State, 805 So. 2d 1071 (Fla. 3d DCA 2002), this Court remanded the cause to the trial court for clarification as to whether the trial court intended to sentence Nelson, who was convicted of robbery, as a prison releasee reoffender. On remand, the trial court clarified that the defendant was to be sentenced as a prison releasee reoffender. As the State concedes, this means that the defendant's proper sentence is one of fifteen years. See § 775.082(9)(a)2.c, Fla. Stat. (Supp. 1998). Accordingly, we reverse and remand for the trial court to resentence the defendant to a term of 15 years as a prison release reoffender.

Reversed and remanded with directions.

¹ In 2004, rule 3.800 was amended to allow a motion for rehearing to be filed in 3.800 cases within fifteen days of the date of service of the order.