

Third District Court of Appeal

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

Opinion filed March 11, 2009.

Not final until disposition of timely filed motion for rehearing.

No. 3D08-2666

Lower Tribunal Nos. 07-1045 & 06-219

Jose Antonio Carvajal,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Monroe County, Ruth Becker, Judge.

Jose Antonio Carvajal, in proper person.

Bill McCollum, Attorney General, for appellee.

Before GERSTEN, C.J., LAGOA, J., and SCHWARTZ, Senior Judge.

PER CURIAM.

We reverse the summary denial of Jose Antonio Carvajal's ("defendant") Florida Rule of Criminal Procedure 3.800(a) motion to correct illegal sentence.

The trial court incorrectly ruled that the motion was insufficient because it was not properly sworn. See Judge v. State, 596 So. 2d 73, 77 (Fla. 2d DCA 1992) (“Unlike a motion pursuant to rule 3.850, the [rule 3.800(a)] motion can be filed without an oath because it is designed to test issues that should not involve significant questions of fact or require a lengthy evidentiary hearing.”). Accordingly, we reverse the order entered below, and remand for the trial court to determine the merit of defendant’s rule 3.800 (a) motion.

Reversed and remanded with instructions.