

Third District Court of Appeal

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

Opinion filed February 25, 2009.
Not final until disposition of timely filed motion for rehearing.

No. 3D08-3146
Lower Tribunal No. 02-25914

Eric De La Portilla,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Miami-Dade County, John Thornton, Judge.

Eric De La Portilla, in proper person.

Bill McCollum, Attorney General, for appellee.

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

PER CURIAM.

Eric De La Portilla (“defendant”) appeals the summary denial of his motion to correct an illegal sentence pursuant to Florida Rule of Criminal Procedure

3.800(a). We reverse because the trial court erred in finding that defendant's conviction for battery on a law enforcement officer qualified for a violent career criminal sentence. See State v. Hearns, 961 So. 2d 211 (Fla. 2007). Accordingly, we reverse and remand to resentence defendant without the violent career criminal designation on the battery on a law enforcement officer count.

Reversed and remanded with instructions