

Third District Court of Appeal

State of Florida, January Term, A.D. 2010

Opinion filed March 31, 2010.

Not final until disposition of timely filed motion for rehearing.

No. 3D09-2755

Lower Tribunal No. 98-17219D

Orientus Werner,
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, David C. Miller, Judge.

Orientus Werner, in proper person.

Bill McCollum, Attorney General, for appellee.

Before COPE, WELLS, and CORTIÑAS, JJ.

WELLS, J.

Orientus Werner appeals from an order denying his August 3, 2009, Florida Rule of Criminal Procedure 3.800 motion to correct illegal sentence. Although it appears from the record before us that (1) the correction requested in the instant motion was previously requested in a motion filed on March 17, 2009, and (2) the State agreed to the requested correction with regard to Werner's sentences on Counts 6 (armed home invasion) and 12 (burglary with assault or battery while armed) of the charges against him, the record does not disclose what, if any, relief was previously granted regarding this request. The order on appeal is, therefore, reversed and remanded either to accord the relief to which Werner is concededly entitled or for attachment of those portions of the record which demonstrate that such relief has already been granted. Mendoza v. State, 20 So. 3d 896 (Fla. 3d DCA 2009); George v. State, 19 So. 3d 428 (Fla. 3d DCA 2009); Taylor v. State, 19 So. 3d 420 (Fla. 3d DCA 2009); Fernandez v. State, 18 So. 3d 200 (Fla. 3d DCA 2009).

Reversed and remanded.