

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

APPEAL

IN THE DISTRICT COURT OF
OF FLORIDA
THIRD DISTRICT
JANUARY TERM, 2003

EDDIE FRANKLIN,

**

Appellant,

**

vs.

**

CASE NO. 3D02-2713

THE STATE OF FLORIDA,

**

LOWER

Appellee.

**

TRIBUNAL NO. 01-20640

Opinion filed January 22, 2003.

An Appeal under Fla. R. App. P. 9.141(b)(2) from the
Circuit Court for Dade County, Lawrence Schwartz, Judge.

Eddie Franklin, in proper person.

Charlie Crist, Attorney General, for appellee.

Before SCHWARTZ, C.J., and COPE and GODERICH, JJ.

PER CURIAM.

Because the record does not conclusively refute the appellant's claim of affirmative misadvice of counsel regarding the length of sentence, we reverse and remand for an evidentiary hearing. State v. Leroux, 689 So. 2d 235, 236 (Fla. 1996); Bell v. State, 746 So. 2d 515 (Fla. 3d DCA 1999); Rensoli v. State, 718 So. 2d 1278 (Fla. 3d DCA 1998).

Reversed and remanded.