

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

SETH D. DISANTO,

Appellant,

v.

Case No. 5D14-4083

STATE OF FLORIDA ,

Appellee.

_____ /

Opinion filed February 13, 2015

3.800 Appeal from the Circuit Court
for Citrus County,
Richard A. Howard, Judge.

Seth D. Disanto, Florida City, pro se.

Pamela Jo Bondi, Attorney General,
Tallahassee, and L. Charlene Matthews,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Seth Disanto appeals the trial court's summary denial of his motion to correct illegal sentence, which was filed pursuant to Florida Rule of Criminal Procedure 3.800(a). In his motion, Disanto alleged that the State improperly relied on a Hernando County conviction as one of the predicate felonies necessary to support his habitualization in this case. However, because Disanto did not allege that the predicate prior convictions used to

support his habitualization do not exist as a matter of law, his motion is facially insufficient. See Macaluso v. State, 912 So. 2d 694, 696 (Fla. 2d DCA 2005). Accordingly, we reverse the trial court's order summarily denying Disanto's motion and remand with instructions to enter an order of dismissal.

REVERSED and REMANDED with instructions.

PALMER, EVANDER, and BERGER, JJ., concur.