

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

CANDACE L. BAUTISTA,

Petitioner,

v.

Case No. 5D14-4441

STATE OF FLORIDA,

Respondent.

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Opinion filed June 5, 2015

Petition for Certiorari Review of Order  
from the Circuit Court for Citrus County,  
Richard A. Howard, Judge.

Candace L. Bautista, Brooksville, pro se.

Pamela Jo Bondi, Attorney General,  
Tallahassee, and Allison Leigh Morris,  
Assistant Attorney General, Daytona  
Beach, for Appellee.

PER CURIAM.

Petitioner, Candace Bautista, has filed a petition for writ of certiorari requesting review of the trial court's order denying her motion to mitigate or reduce sentence. The trial court denied the motion, concluding that it was filed after sixty days from the date of sentence and that the court did not have jurisdiction to hear the motion. However, Bautista appealed her sentence and this court affirmed, issuing its mandate on

September 16, 2014. Bautista filed her motion within sixty days of that date. Florida Rule of Criminal Procedure 3.800(c) provides that the court may reduce or modify a sentence pursuant to a motion filed within sixty days after receipt of the mandate issued by the appellate court. The State concedes that the motion was timely filed under the rule and that the case should be remanded so the trial court can consider the motion on the merits. Accordingly, we grant the petition for certiorari, issue the writ, vacate the order under review, and remand this case to the trial court.

PETITION GRANTED; ORDER VACATED; REMANDED.

SAWAYA, PALMER and EDWARDS, JJ., concur.