

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

CHRISTIAN SANCHEZ,
Appellant,

v.

Case No. 5D19-3774

STATE OF FLORIDA,
Appellee.

_____ /

Opinion filed December 18, 2020

Appeal from the Circuit Court
for Marion County,
David B. Eddy, Judge.

James S. Purdy, Public Defender, and
Danielle Rufai, Assistant Public Defender,
Daytona Beach, for Appellant.

Ashley Moody, Attorney General,
Tallahassee, and L. Charlene Matthews,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Christian Sanchez appeals his sentence after entering guilty pleas to one count of aggravated battery with a firearm and one count of possession of firearm by a delinquent. Because Sanchez failed to file a motion to withdraw his plea, we are without jurisdiction. See *Hicks v. State*, 915 So. 2d 740, 741 (Fla. 5th DCA 2005) (holding defendant's competency at time of guilty or no contest plea is issue bearing upon voluntary and

intelligent character of defendant's plea, which falls within limited class of issues defendant may raise on appeal from guilty or no contest plea provided defendant first files motion to withdraw plea in trial court). *But see Dortch v. State*, 242 So. 3d 431, 433 (Fla. 4th DCA 2018) (receding from position that criminal defendant who may be incompetent to proceed must file motion to withdraw plea to preserve issue of his or her competency to enter plea for appellate review), *review granted*, No. SC18-681, 2018 WL 3635017 (Fla. July 11, 2018). Consequently, we dismiss the appeal, but we do so without prejudice to Sanchez's right to seek appropriate and timely postconviction relief below.

DISMISSED.

EVANDER, C.J., EDWARDS and HARRIS, JJ., concur.