

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

JANUARY TERM 2013

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

WARREN WILLIAMS,

Appellant,

v.

Case No. 5D12-4467

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed March 8, 2013.

3.800 Appeal from the Circuit Court
for Orange County,
Bob LeBlanc, Judge.

Warren E. Williams, Clermont, pro se.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Rebecca Rock
McGuigan, Assistant Attorney General,
Daytona Beach, for Appellee.

PER CURIAM.

The Appellant, Warren Williams, appeals the order striking his rule 3.800(a) motion to correct an illegal sentence in Orange County case number 1984-CF-3189 as being improperly successive and barring him from filing any pro se motions. We agree that the court was in error in striking his rule 3.800(a) motion in that it appears, from the record, Williams was not afforded the procedural due process under State v. Spencer,

751 So. 2d 47 (Fla. 1999) (holding that trial court must issue order to show cause which initiates a separate proceeding independent of the rule 3.800 action before imposing sanctions).

The State correctly concedes that Williams is entitled to an opportunity to respond before sanctions are imposed. The matter is remanded to the trial court to either attach records to establish that Williams received notice and was given an opportunity to be heard or to issue an order to show cause in accordance with Spencer.

REMANDED with INSTRUCTIONS.

GRIFFIN, TORPY and JACOBUS, JJ., concur.