

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

RODNEY RUSSELL GARVIN,
Appellant,

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

v.

CASE NO. 1D05-5221

STATE OF FLORIDA,
Appellee.

_____ /

Opinion filed October 11, 2006.

An appeal from the Circuit Court for Okaloosa County.
G. Robert Barron, Judge.

Nancy A. Daniels, Public Defender, and Archie F. Gardner, Jr., Assistant Public
Defender, Tallahassee, for Appellant.

Charlie Crist, Attorney General, Tallahassee, for Appellee.

PER CURIAM.

In this case filed pursuant to Anders v. California, 386 U.S. 738 (1967), we find no preserved reversible error apparent from the face of the record. However, we note that in case number 05-268, the trial court orally pronounced a sentence of three years' imprisonment to be followed by two years of probation, but the written sentence erroneously indicates that the incarcerative portion of the sentence is to be followed

by five years of probation.¹ Although the written sentence is wrong, this Court cannot direct the trial court to correct the error because the issue was not preserved for appeal by the filing of a timely motion to correct sentencing error pursuant to Florida Rule of Criminal Procedure 3.800(b). See Aument v. State, 868 So. 2d 682 (Fla. 5th DCA 2004).

Accordingly, we affirm the appellant's judgment and sentence without prejudice to appellant's filing a timely motion for postconviction relief to correct the sentencing discrepancy.

AFFIRMED.

WEBSTER, BENTON, AND VAN NORTWICK, JJ., CONCUR.

¹ The "Judgment, Sentence and Order Placing Defendant on Probation During Portion of Sentence," correctly indicates that the term of probation in case number 05-268 is two years.