

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

GARY MOORE,
Appellant,

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

v.

CASE NO. 1D09-2120

STATE OF FLORIDA,
Appellee.

_____ /

Opinion filed September 14, 2009.

An appeal from the Circuit Court for Duval County.
L. P. Haddock, Judge.

Gary Moore, pro se, Appellant.

Bill McCollum, Attorney General, and Giselle Denise Lylen, Tallahassee, for
Appellee.

PER CURIAM.

Appellant challenges the denial of his motion to correct illegal sentence filed pursuant to Florida Rule of Criminal Procedure 3.800(a). Appellant alleges that he received a sentence totaling 20 years (15 years' incarceration plus 5 years' probation) for a second-degree felony, which is above the statutory maximum he could receive for the offense. See § 775.082(3)(c), Fla. Stat. (2008) (a second-

degree felony is punishable by up to 15 years' imprisonment). The trial court denied the claim on the ground that Appellant was sentenced as an habitual felony offender. See § 775.084(4)(a)2., Fla. Stat. (2008) (defendant sentenced as HFO can receive up to 30 years' imprisonment for a second-degree felony). However, the trial court did not attach any documentation indicating that Appellant was sentenced as an HFO. See, e.g., Corp v. State, 698 So. 2d 1349 (Fla. 1st DCA 1997) ("when denying a cognizable 3.800(a) claim, the trial court must attach portions of the record conclusively refuting that claim"). We therefore REVERSE and REMAND for the trial court to either attach documentation conclusively refuting Appellant's claim or to grant relief.

WEBSTER, LEWIS, and THOMAS, JJ., CONCUR.