

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

FREDERICK CHARLES
DUTTON, JR.,

Petitioner,

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

CASE NO. 1D11-5871

v.

STATE OF FLORIDA,

Respondent.

Opinion filed April 24, 2012.

Petition Alleging Ineffective Assistance of Appellate Counsel -- Original
Jurisdiction.

Frederick Charles Dutton, Jr., pro se, Petitioner.

Pamela Jo Bondi, Attorney General, and Anne C. Conley, Assistant Attorney General,
Tallahassee, for Respondent.

PER CURIAM.

Frederick Charles Dutton, Jr., presents a timely claim of ineffective assistance of appellate counsel. He asserts that his appellate counsel failed to properly argue that the trial court erred in imposing a three year minimum mandatory sentence under the Law Enforcement Protection Act (“LEPA”), section 775.0823, Florida Statutes. However, because the trial court was required by section 316.1935(3)(b), Florida Statutes, to impose the minimum mandatory term complained of, petitioner suffered no prejudice as a consequence of counsel’s alleged deficiency. Accordingly, the petition alleging ineffective assistance of appellate counsel is DENIED on the merits.

Nonetheless, because the portion of petitioner’s written judgment and sentence identifying LEPA as the basis for the minimum mandatory term is an obvious clerical error, we direct the trial court to correct the judgment and sentence to reflect that the minimum mandatory term was in fact imposed pursuant to section 316.1935(3)(b), Florida Statutes.

PADOVANO, LEWIS, and CLARK, JJ., CONCUR.