

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

DALE WEBSTER,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D15-4280

[May 4, 2016]

Appeal of order denying rule 3.800 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Michael I. Rothschild, Judge; L.T. Case No. 99-17499CF10A.

Dale Webster, Carrabelle, pro se.

No appearance required for appellee.

PER CURIAM.

Dale Webster appeals an order granting in part and denying in part his rule 3.800(a) motion to correct illegal sentence. We affirm, but remand for the trial court to enter an amended sentencing order.

In case number 99-17499CF, Webster entered a no contest plea to kidnapping and aggravated battery. He was sentenced as a youthful offender to eighteen months in prison followed by four years of probation. Webster subsequently violated his probation by committing new offenses. The trial court revoked his probation and sentenced him to concurrent terms of twenty and fifteen years in prison.

In case number 01-19317CF, Webster was convicted by a jury of felony battery. He was sentenced to ten years in prison as a violent habitual felony offender, with a five-year mandatory minimum as a prison releasee reoffender, consecutive to his sentence in 99-17499CF.

In his motion, which was filed in both cases, Webster argued that his sentence in 99-17499CF is illegal because the court improperly revoked his youthful offender status. The trial court agreed and granted the motion

as to that case. The court ordered the Department of Corrections to classify Webster as a youthful offender as to case number 99-17499CF, but did not enter an amended sentencing order. The court denied the motion as to case number 01-19317CF.

We affirm the trial court's order. Webster is entitled to maintain his youthful offender designation in case number 99-17499CF for classification purposes. *See St. Cyr v. State*, 106 So. 3d 487, 489 (Fla. 4th DCA 2013). He is not entitled to be designated as a youthful offender in 01-19317CF because he was never sentenced as a youthful offender in that case. *See Boynton v. State*, 896 So. 2d 898, 899 (Fla. 3d DCA 2005); *see also Christian v. State*, 84 So. 3d 437, 444 (Fla. 5th DCA 2012), *rev. denied*, 134 So. 3d 446 (Fla. 2014).

On remand, the trial court is instructed to enter an amended sentencing order in case number 99-17499CF reflecting Webster's youthful offender designation.

Affirmed and remanded with instructions.

STEVENSON, DAMOORGIAN and LEVINE, JJ., concur.

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Not final until disposition of timely filed motion for rehearing.