

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2008

MOSES DESRAVINES,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D07-2657

[February 13, 2008]

PER CURIAM.

Moses Desravines was convicted of aggravated assault with a firearm, false imprisonment, battery and possession of a firearm by a convicted felon. He was sentenced to five years in prison as a prison releasee reoffender on counts one and two, and was further ordered to serve a three year mandatory minimum under the 10-20-life statutes as to count four. He was sentenced to time served for count three.

Desravines now appeals a trial court order which denied “ground 2” of his motion to correct illegal sentence filed pursuant to Fla. R. Crim. P. 3.800(a), but which also adopted the State’s response to the motion in general.

We are unable to discern which issue the trial court intended to reject in “ground 2” because the motion did not number them or otherwise separate them with any degree of clarity. Further, the State’s response, adopted by the trial court, actually conceded the need for resentencing on count four, (possession of a firearm by a convicted felon) and asked the parties to address appellant’s remaining claims of illegal sentence after resentencing. The State agreed with appellant’s arguments that his sentence under the 10-20-life statutes was illegal because the statutory elements for enhancement were not precisely charged in the information, and it also conceded that the verdict form for count four failed to specifically refer to the use of a firearm, so as to allow the court to impose a three year mandatory minimum sentence on that count.

This Court issued an order for a State response to this Court, but even after extensions of time were granted, no response was filed.

Given this record, and since appellant does appear to be entitled to relief in his sentencing challenges to the extent conceded by the State, we reverse and remand to the trial court for further consideration.

POLEN, FARMER and TAYLOR, JJ., concur.

* * *

Appeal of order denying rule 3.800(a) motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Krista Marx, Judge; L.T. Case No. 00-10083 CFA02.

Moses Desravines, Daytona Beach, pro se.

No appearance for appellee.

Not final until disposition of timely filed motion for rehearing