

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

JOSE M. ARCE,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D08-198

[February 20, 2008]

PER CURIAM.

Upon our review of the most recent order denying Jose M. Arce's rule 3.800(a) motion, we reverse and remand with directions that Arce be resentenced without habitual offender designation. Within his initial motion Arce alleged that one of the predicate offenses used to support his habitual offender sentence was not his offense. *Arce v. State*, 946 So. 2d 645 (Fla. 4th DCA 2007). We reversed the denial of relief and remanded. *Arce*, 946 So. 2d at 654. Two additional opportunities have been afforded to refute that claim or to otherwise demonstrate that Arce qualified for habitual offender sentencing. See *Arce v. State*, 936 So. 2d 651 (Fla. 4th DCA 2006). None of the documents furnished as part of the appellate record accomplish either. Consequently, the case is remanded and Arce is to be resentenced without the designation.

TAYLOR, MAY and DAMOORGIAN, JJ., concur.

* * *

Appeal of order denying rule 3.800(a) motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Edward A. Garrison, Judge; L.T. Case No. 1996CF009653AXX.

Jose M. Arce, Chipley, pro se.

No appearance required for appellee.

Not final until disposition of timely filed motion for rehearing