

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2008*

**JAMES LEON JOHNSON,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D08-2934

[October 8, 2008]

PER CURIAM.

James Leon Johnson appeals the denial of his rule 3.800(a) motion to correct illegal sentence, complaining that his life sentence as a habitual felony offender, the maximum habitual sentence allowed for his offense, was illegal because his sentencing transcript reflects that the sentencing judge was under the misimpression that once he decided to impose a habitual sentence, the habitualization statute mandated the imposition of that maximum sentence. We disagree with the trial court's conclusion that the transcript refuted the allegation; however, we conclude that this is not a ground that properly could be raised in a rule 3.800(a) motion, filed long after the time for filing a rule 3.850 motion has expired. See *generally Wright v. State*, 911 So. 2d 81 (Fla. 2005); *New v. State*, 807 So. 2d 52 (Fla. 2001). For that reason, we affirm.

POLEN, STEVENSON and GROSS, JJ., concur.

\* \* \*

Appeal of order denying rule 3.800(a) motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Michael L. Gates, Judge; L.T. Case No. 86-8002 CF10A.

James Leon Johnson, Immokalee, pro se.

No appearance required for appellee.

***Not final until disposition of timely filed motion for rehearing.***