

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2010

LEON COOPER,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D09-2492

[April 14, 2010]

DAMOORGIAN, J.

Appellant, Leon Cooper, appeals the trial court's summary denial of his 3.800(a) motion to correct an illegal sentence in which he seeks resentencing due to a computation error in his sentencing scoresheet. In the proceedings below, the trial court denied Cooper's motion, concluding that the error was so minimal that a correction would have only a *de minimus* effect and resentencing was unnecessary. Cooper argues that the trial court erred because his sentence of 288 months was based on miscalculations in his scoresheet. The State concedes that Cooper's original scoresheet was incorrect and that Cooper's maximum sentence under the corrected scoresheet is 285.5 months. Nonetheless, the State argues that the error is *de minimus* and, therefore, resentencing is not required. We disagree with the State's position and reverse and remand the trial court's summary denial of Cooper's claim with instructions that Cooper be resentenced with a corrected sentencing scoresheet.

Ordinarily, if correcting an erroneous sentencing scoresheet results in an "essentially *de minimus*" change, a claim for resentencing is without merit where the corrected score still falls within the same sentencing bracket. See *Colon v. State*, 738 So. 2d 1023, 1024 (Fla. 4th DCA 1999); *Brooks v. State*, 969 So. 2d 238, 243 (Fla. 2007) ("[I]f the trial court could have imposed the same sentence using a correct scoresheet, any error was harmless.").

In this case, Cooper's sentencing scoresheet error was not *de minimus* because Cooper was sentenced to 288 months, but a corrected scoresheet permits a maximum sentence of only 285.5 months.

Therefore, the trial court could impose a maximum sentence of only 285.5 months. *See Brooks*, 969 So. 2d at 243.

Accordingly, we reverse and remand for resentencing.

Reversed and Remanded.

FARMER and HAZOURI, JJ., concur.

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Appeal of order denying rule 3.800 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Bernard I. Bober, Judge; L.T. Case No. 94-16562 CF10E.

Leon Cooper, Indiantown, pro se.

Bill McCollum, Attorney General, Tallahassee, and Joseph A. Tringali, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.