

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING  
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

CALVIN MATHEWS, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 STATE OF FLORIDA, )  
 )  
 Appellee. )  
 )  
 \_\_\_\_\_ )

Case No. 2D05-667

Opinion filed August 12, 2005.

Appeal pursuant to Fla. R. App. P.  
9.141(b)(2) from the Circuit Court for  
Hillsborough County; Jack Espinosa, Jr.,  
Judge.

DAVIS, Judge.

Calvin Mathews appeals the summary denial of his motion to correct illegal sentence filed pursuant to Florida Rule of Criminal Procedure 3.800(a). We reverse and remand.

Mathews claims his scoresheet was improperly calculated because it incorrectly scored a nolle prossed offense as the primary offense. The trial court acknowledged the error but found that the error was harmless because "Mathews'

sentence was well within the statutory maximum and could have been imposed under a correct scoresheet." While we are aware of the recent Florida Supreme Court statement in State v. Anderson, 30 Fla. L. Weekly S437, S439 (Fla. June 16, 2005), which indicates that the "would-have-been-imposed standard may be too speculative and subjective for purposes of rule 3.800(a)," the law of this district, as it presently stands, nevertheless requires the trial court to grant postconviction relief pursuant to rule 3.800(a) unless the record conclusively demonstrates that the defendant would have received the same sentence under a corrected scoresheet. See Wilson v. State, 877 So. 2d 27 (Fla. 2d DCA 2004).

Because the transcript of the sentencing hearing was not included in the record on appeal, we cannot determine whether the record conclusively demonstrates that Mathews would have received the same sentence under a corrected scoresheet. Therefore, we reverse and remand for the trial court to make this factual determination.

Reversed and remanded.

FULMER, C.J., and VILLANTI, J., Concur.