

Third District Court of Appeal

State of Florida, July Term, A.D. 2008

Opinion filed October 22, 2008.

Not final until disposition of timely filed motion for rehearing.

No. 3D08-2146

Lower Tribunal No. 01-13752

Javier Rodriguez,
Petitioner,

vs.

The State of Florida,
Respondent.

A Case of Original Jurisdiction—Mandamus.

Javier Rodriguez, in proper person.

Bill McCollum, Attorney General, and Richard L. Polin, Assistant Attorney General, for respondent.

Before CORTIÑAS and SALTER, JJ., and SCHWARTZ, Senior Judge.

PER CURIAM.

Javier Rodriguez petitions this Court for a writ of mandamus directing the trial court to submit a sentencing order to the Department of Corrections for circuit

court case number 01-13752. We deny the petition because no order amending Rodriguez's sentence from consecutive to concurrent terms exists for that case.

In 2004, Rodriguez entered into a plea agreement after admitting he violated his community control. That agreement, freely entered into by Rodriguez, provided that he could be sentenced in absentia to fifteen years in prison for case number 01-13752 and a related case if he failed to appear at a later sentencing hearing. Rodriguez was then released on his own recognizance to assist detectives in an ongoing investigation.

After Rodriguez failed to appear at his May 10, 2005, sentencing hearing, the court sentenced him in absentia to two consecutive five-year prison terms in case number 01-13752. Contrary to Rodriguez's current claims, that May 10 sentencing order was never amended. Rather, a correction was made in June 2005 to Rodriguez's adjudication order. The only amendment made in Rodriguez's sentencing orders occurred in case number 01-13753, which provides that his sentences in that case run concurrent to his sentences in 01-13752.

Petition denied.