

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JULY TERM, A.D. 2005

OJAY CURTIS NISH a/k/a
CURTISNASH,

Appellant,

vs.

THE STATE OF FLORIDA,

Appellee.

**

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** CASE NO. 3D05-1012

**

** LOWER

TRIBUNAL NO. 03-18153

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Opinion filed July 27, 2005.

An Appeal under Florida Rule of Appellate Procedure
9.141(b) (2) from the Circuit Court for Miami-Dade County,
Jacqueline Hogan Scola, Judge.

Ojay Curtis Nish, in proper person.

Charles J. Crist, Jr., Attorney General, for appellee.

Before COPE, C.J., and SHEPHERD and ROTHENBERG, JJ.

PER CURIAM.

Ojay Nish appeals an order summarily denying his motion to
correct illegal sentence under Florida Rule of Criminal
Procedure 3.800(a). Defendant-appellant Nish maintains that he
does not qualify as a habitual violent felony offender. The

trial court denied the motion without comment and without attaching record excerpts which would conclusively show that the defendant is entitled to no relief. Under this court's standard of review, we must reverse. See Fla. R. App. P. 9.141(b)(2)(D).

We remand the case for a hearing or for the attachment of record excerpts which conclusively refute the defendant's claim.

Reversed and remanded.