

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

AVERY PATTERSON,

Appellant,

v.

Case No. 5D14-3476

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed November 21, 2014

3.800 Appeal from the Circuit Court
for Marion County,
Hale R. Stancil, Judge.

Avery Patterson, Madison, pro se.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Marjorie Vincent-Tripp,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Avery Patterson appeals the denial of his motion to correct illegal sentence filed pursuant to Florida Rule of Criminal Procedure 3.800(a). We reverse.

The trial court granted an earlier rule 3.800(a) motion that Patterson filed and ordered a resentencing hearing for July 1, 2014. The court then cancelled the resentencing hearing. Based on the limited record before us, it does not appear that the resentencing had occurred when Patterson filed the rule 3.800(a) motion that is the

subject of this appeal. Thus, the instant rule 3.800(a) motion was premature, and it was error for the trial court to deny the motion on its merits.

Therefore, we reverse the trial court's order denying the amended motion filed July 29, 2014, and remand with instructions to dismiss the motion without prejudice. Once Patterson is resentenced, he can file an appropriate and timely rule 3.800(a) motion to correct illegal sentence, if such a motion is warranted.

REVERSED AND REMANDED.

PALMER, ORFINGER and COHEN, JJ., concur.