

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

ROBERT G. SMART,

Appellant,

v.

Case No. 5D16-1548

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed September 30, 2016

3.800 Appeal from the Circuit
Court for Marion County,
Anthony M. Tatti, Judge.

Robert G. Smart, Raiford, pro se.

No Appearance for Appellee.

COHEN, J.

Because the trial court lacked jurisdiction to rule on Smart's motion to correct illegal sentence during the pendency of his direct appeal, we reverse the order denying the motion.¹ See Fla. R. Crim. P. 3.800(a)(1); Padilla-Padial v. State, 152 So. 3d 51, 52 (Fla. 5th DCA 2014). We express no opinion on the merits of the motion.

REVERSED AND REMANDED.

LAWSON, C.J., and PALMER, J., concur.

¹ Although the judgment and sentence were affirmed on direct appeal, the mandate did not issue until after the trial court's ruling on the motion. See Smart v. State, 189 So. 3d 798 (Fla. 5th DCA 2016).