

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

JULY TERM 2003

ROBERT HABER,

Petitioner,

v.

CASE NO. 5D03-1181

STATE OF FLORIDA,

Respondent.

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Opinion filed July 18, 2003

Petition for Certiorari Review of Order  
from the Circuit Court for Orange County,  
Reginald Whitehead, Judge.

David P. Hill, David P. Hill, P.A.,  
Orlando, for Petitioner.

Charles J. Crist, Jr., Attorney General, Tallahassee,  
and Bonnie Jean Parrish, Assistant Attorney General,  
Daytona Beach, for Respondent.

PER CURIAM.

Robert Haber seeks certiorari review of an order denying his motion filed pursuant to Florida Rule of Criminal Procedure 3.800(c) to reduce or modify his sentence. Although the motion was timely filed, because the hearing was not completed within the sixty-day period set forth in the rule, the trial court concluded that it lacked jurisdiction to consider the motion on the merits. Such orders are reviewable by certiorari. See Arnold v. State, 621 So. 2d 503 (Fla. 5th DCA 1993).

Based on Timmer v. State, 840 So. 2d 1160 (Fla. 5th DCA 2003), which had not been

published at the time the trial court made its decision, we quash the order under review and remand the matter for consideration of Haber's motion on the merits.

CERTIORARI GRANTED; ORDER QUASHED.

SHARP, W., PLEUS and ORFINGER, JJ., concur.