

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

JULY TERM 2013

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

TONY THOMAS,

Appellant,

v.

Case No. 5D13-1820

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed July 19, 2013.

3.800 Appeal from the Circuit Court
for Citrus County,
Richard A. Howard, Judge.

Tony Thomas, Lake City, pro se.

No Appearance for Appellee.

WALLIS, J.

Appellant challenges the trial court's order that dismissed Appellant's second Florida Rule of Criminal Procedure 3.800(a) motion for a lack of jurisdiction. We reverse.

Appellant's first rule 3.800(a) motion challenged the accuracy of his sentencing scoresheet. The trial court denied the motion, and Appellant appealed the order. See *Thomas v. State*, No. 5D13-891 (Fla. 5th DCA May 7, 2013), *reh'g denied* (June 7, 2013). During that appeal, Appellant filed his second rule 3.800(a) motion. The trial

court dismissed the second motion because Appellant's first rule 3.800(a) motion was pending before this Court. Because the issue raised in Appellant's second motion is distinct from the issue raised in his first motion, we hold that the trial court erred in dismissing Appellant's second motion for lack of jurisdiction. See *McFarland v. State*, 808 So. 2d 274, 274 (Fla. 1st DCA 2002) (“[W]here the issues in each motion are not related to each other, the trial court does not lose jurisdiction over the later-filed motion.”).

Accordingly, we reverse and remand for the trial court to consider the instant rule 3.800(a) motion on its merits.

REVERSED and REMANDED.

TORPY, C.J., and BERGER, J., concur.