

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

CHARLES E. LONG,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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

CASE NO. 1D03-3174

Opinion filed December 31, 2003.

An appeal from the Circuit Court for Duval County.
Peter L. Dearing, Judge.

Appellant, pro se.

Charles J. Crist, Jr., Attorney General, and Karen M. Holland, Assistant Attorney
General, Tallahassee, for Appellee.

PER CURIAM.

The appellant challenges the summary denial of his motion filed pursuant to Florida Rule of Criminal Procedure 3.800(a), which he timely moved to voluntarily dismiss. Because the appellant filed a motion for voluntary dismissal before the trial court ruled on the postconviction motion, the voluntary dismissal should have been granted so long as the state would suffer no prejudice. See Hansen v. State, 816 So.

2d 808, 809 (Fla. 1st DCA 2002). The trial court erred in not ruling first on the appellant's motion for voluntary dismissal before denying the postconviction motion. See generally Clark v. State, 491 So. 2d 545, 546 (Fla. 1986). We reverse and remand for the trial court to rule on the appellant's motion to voluntarily dismiss his postconviction motion.

REVERSED AND REMANDED.

ERVIN, DAVIS and BROWNING, JJ., CONCUR.