

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

FRANK LAMONT WHEELER,

Appellant,

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

v.

CASE NO. 1D05-3942

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed December 19, 2005.

An appeal from the Circuit Court for Duval County.
Michael R. Weatherby, Judge.

Appellant, pro se.

Charlie Crist, Attorney General; Sherri T. Rollison, Assistant Attorney General,
Tallahassee, for Appellee.

PER CURIAM.

The appellant challenges an order of the trial court dismissing his motion to correct an illegal sentence filed pursuant to Florida Rule of Criminal Procedure 3.800(a), for lack of jurisdiction because the appellant had a pending appeal of an earlier postconviction motion. However, an appeal of a postconviction relief matter will not deprive the trial court of jurisdiction so long as the issues raised in

the two cases are unrelated. See Bates v. State, 704 So. 2d 562 (Fla. 1st DCA 1997); Kimmel v. State, 629 So. 2d 1110 (Fla. 1st DCA 1994). A review of 1D05-2111 reveals that the issues pending appeal are unrelated to the issues raised in the present motion.

We therefore reverse the trial court's dismissal of the appellant's motion to correct an illegal sentence and remand for the trial court to address the appellant's motion on the merits.

REVERSED AND REMANDED.

WEBSTER, BROWNING and POLSTON, JJ. CONCUR.