

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

LEROY JACKSON,

Appellant,

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

v.

CASE NO. 1D05-4067

STATE OF FLORIDA,

Appellee.

Opinion filed January 17, 2006.

An appeal from the Circuit Court for Madison County.

E. Vernon Douglas, Judge.

Appellant, pro se.

Charlie Crist, Attorney General; Sheron Wells, Assistant Attorney General,
Tallahassee, for Appellee.

PER CURIAM.

Appellant challenges the trial court's dismissal of his rule 3.800(a) motion for lack of jurisdiction. The trial court found that because appellant had a pending appeal of the trial court's order denying his rule 3.800(a) motion, the trial court was without jurisdiction to hear appellant's instant postconviction motion. However, as no appeal was pending with this Court, the trial court had jurisdiction to entertain appellant's rule 3.800(a) motion. Cf. Bates v. State, 704 So. 2d 562, 563 (Fla. 1st DCA 1997);

Kimmel v. State, 629 So. 2d 1110, 1111 (Fla. 1st DCA 1994). Accordingly, the trial court's order is reversed and appellant's motion is remanded to the trial court for consideration on the merits.

REVERSED and REMANDED.

KAHN, C.J., LEWIS and POLSTON, JJ., CONCUR.