

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

TIMOTHY NORMAN MOODY,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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

CASE NO. 1D09-5870

Opinion filed April 15, 2011.

An appeal from the Circuit Court for Wakulla County.
N. Sanders Sauls, Judge.

Sheila Callahan, Assistant Conflict Counsel, Tallahassee, for Appellant.

Pamela Jo Bondi, Attorney General, for Appellee.

PER CURIAM.

Timothy Norman Moody appeals his convictions for sexual battery on a child, lewd or lascivious molestation, and child abuse. Moody's appellate counsel

filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), asserting that she was unable to make a good-faith argument that reversible error occurred in the trial court with the exception of several sentencing errors which were preserved by two Florida Rule of Criminal Procedure 3.800(b)(2) motions. After a careful review of the record, we affirm Moody's convictions on all counts. However, we remand for resentencing with respect to the lewd or lascivious molestation count.

Moody was sentenced on the lewd or lascivious molestation count under the Jessica Lunsford Act (JLA) and thus the crime was designated as a life felony. § 800.04(5)(b), Fla. Stat. (2005). Moody was charged and found guilty of committing the crime of lewd or lascivious molestation occurring on or before July 8, 2004, before the effective date of the JLA. Before the enactment of the JLA, the crime of lewd or lascivious molestation was a first-degree felony. § 800.04(5)(b), Fla. Stat. (2004). Accordingly, the trial court erred by sentencing Moody to a life felony on this count; we, therefore, remand for resentencing. See Perea v. State, 35 So. 3d 58, 60 (Fla. 5th DCA 2010).

Affirmed in part and Reversed in part.

WEBSTER, ROWE, and MARSTILLER, JJ., CONCUR.