

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

KYLE CHRISTOPHER BASS,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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

CASE NO. 1D12-2434

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Opinion filed October 16, 2013.

An appeal from the Circuit Court for Duval County.  
William A. Wilkes, Judge.

Nancy A. Daniels, Public Defender, and Pamela D. Presnell, Assistant Public  
Defender, Tallahassee, for Appellant.

Pamela Jo Bondi, Attorney General, and Samuel A. Perrone, Assistant Attorney  
General, Tallahassee, for Appellee.

WOLF, J.

Appellant challenges his convictions and sentence for second-degree murder  
and tampering with evidence. We affirm on all issues except one pertaining to the  
imposition of a minimum mandatory sentence, and we reverse and remand for  
resentencing.

The trial court sentenced appellant on the second-degree murder count to life in prison with a twenty-five-year minimum mandatory pursuant to section 775.087(2)(a)(3), Florida Statutes (2006), which applies where the defendant discharged a firearm causing death or great bodily harm. Appellant filed a motion pursuant to Florida Rule of Criminal Procedure 3.800(b)(2) and argued this sentence was illegal because in the special verdict, the jury did not find that he discharged a firearm causing death or great bodily harm, but instead simply found that he discharged a firearm. Thus, appellant asked the court to resentence him to a twenty-year minimum mandatory for discharging a firearm pursuant to section 775.087(2)(a)(2), Florida Statutes (2006).

The trial court granted the motion and imposed a corrected sentence with a twenty-year minimum mandatory. However, the trial court ruled on the motion more than sixty days after the motion was filed. Sixty days after the motion was filed, the trial court's jurisdiction ended and the motion was deemed denied. See Fla. R. Crim. P. 3.800(b)(2); Hart v. State, 773 So. 2d 1263, 1264 (Fla. 1st DCA 2000). Thus, the court's order granting the motion and the corrected sentence are nullities. See Pearce v. State, 968 So. 2d 92, 94 (Fla. 2d DCA 2007). Therefore, we reverse the original sentence and the corrected sentence and remand for resentencing. On all other issues, we affirm.

REVERSED IN PART AND REMANDED.

ROBERTS and MAKAR, JJ., CONCUR.