

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

BENNETT K. TRESSLER, JR.,

Petitioner,

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

v.

CASE NO. 1D13-3642

STATE OF FLORIDA,

Respondent.

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Opinion filed September 3, 2013.

Petition for Writ of Mandamus -- Original Jurisdiction.

Bennett K. Tressler, Jr., pro se, Petitioner.

Pamela Jo Bondi, Attorney General, Tallahassee, for Respondent.

PER CURIAM.

Bennett K. Tressler, Jr., filed a motion to correct illegal sentence with the circuit court pursuant to Florida Rule of Criminal Procedure 3.800(a), asserting an entitlement to relief under Heggs v. State, 759 So. 2d 620 (Fla. 2000). The circuit court struck his motion, finding that because more than 60 days had passed since the date of Tressler's sentencing in 1996, it had no jurisdiction to modify his sentence. By a petition for writ of mandamus, Tressler argues that it is apparent from the circuit court's order that it misapplied the 60-day time limitation found in rule 3.800(c) to erroneously conclude that it lacked jurisdiction to address his rule 3.800(a) motion. As a relief, he seeks an order of this court directing the circuit court to properly consider and dispose of his motion to correct illegal sentence.

While it does appear that the circuit court may have erred when it found that it had no jurisdiction to entertain Tressler's rule 3.800(a) motion, the fact that it has entered an order disposing of that motion precludes the granting of mandamus relief. Accordingly, we DENY the petition for writ of mandamus. However, given that the circuit court has evidently not yet addressed the merits of his Heggs claim, we do so without prejudice to Tressler refile a proper rule 3.800(a) motion with the circuit court.

VAN NORTWICK, SWANSON, and OSTERHAUS, JJ., CONCUR.