

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D17-3432

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LA TISSHA M. JOHNSON,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

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Petition for Writ of Certiorari—Original Jurisdiction.

May 25, 2018

PER CURIAM.

Petitioner seeks certiorari review of the trial court’s denial of her motion to reduce or modify her sentence filed pursuant to Florida Rule of Criminal Procedure 3.800(c). The trial court dismissed the motion as untimely. However, the motion was filed within sixty days of the date that this Court issued the mandates in her direct appeals. *See Bailey v. State*, 136 So. 3d 615, 616 (Fla. 2d DCA 2013) (“[A] rule 3.800(c) motion is considered filed when entrusted to prison officials for further delivery or processing.”). As the State concedes, the motion was timely filed. *See Fla. R. Crim. P. 3.800(c)*.

The trial court’s failure to consider Petitioner’s rule 3.800(c) motion on the merits was a departure from the essential requirements of law. *See Bacchus v. State*, 958 So. 2d 1016, 1017

(Fla. 1st DCA 2007). Accordingly, we grant the petition for writ of certiorari, vacate the order dismissing Petitioner's rule 3.800(c) motion, and remand with directions to consider the motion on its merits.

OSTERHAUS, WINOKUR, and M.K. THOMAS, JJ., concur.

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*Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.*

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La Tissha M. Johnson, pro se, Petitioner.

Pamela Jo Bondi, Attorney General, and Steven E. Woods, Assistant Attorney General, Tallahassee, for Respondent.