

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D18-0041

WILLIE F. BARNES,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Escambia County.
Edward P. Nickinson, III, Judge.

August 30, 2019

PER CURIAM.

REVERSED. *See Simmons v. State*, 274 So. 3d 468 (Fla. 1st DCA 2019) (holding that the trial court lacked jurisdiction to rescind an order granting resentencing once it became a final, appealable order, and neither party timely moved for rehearing of the order under Fla. R. Crim. P. 3.800(b)(1)(B)).

As in *Simmons*, we quash the order on appeal and remand with directions that the trial court reinstate the order granting Appellant's rule 3.800(a) motion. The trial court should then resentence Appellant to a lawful sentence.

ROWE, OSTERHAUS, and BILBREY, JJ., concur.

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

Dane K. Chase of Chase Law Florida, P.A., St. Petersburg, for Appellant.

Ashley Moody, Attorney General, and Benjamin L. Hoffman, Assistant Attorney General, Tallahassee, for Appellee.