

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D18-3098

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LAWAYNE HENDERSON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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On appeal from the Circuit Court for Taylor County.  
Gregory S. Parker, Judge.

October 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.

OSTERHAUS, BILBREY, 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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Andy Thomas, Public Defender, and Glen P. Gifford, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Damaris E. Reynolds, Assistant Attorney General, Tallahassee, for Appellee.