

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D19-2740

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JOSHUA LOWERY,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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On appeal from the Circuit Court for Duval County.  
Bruce Anderson, Jr., Judge.

May 18, 2020

PER CURIAM.

Upon review of the instant case, we affirm the lower court's order denying postconviction relief sought under Florida Rule of Criminal Procedure 3.850. We write only to correct a scrivener's error in the judgment. *See Ashley v. State*, 850 So. 2d 1265, 1268 n.3 (Fla. 2003) (defining a scrivener's error as a written clerical error that is not "the result of a judicial determination or error"). Appellant's written judgment reflects that he was convicted of child neglect as a second-degree felony. However, both the plea hearing and the sentencing hearing transcripts indicate that Appellant pleaded guilty to two counts of child neglect as third degree felonies. On remand, the trial court shall correct the judgment to reflect Appellant's convictions on counts two and three are the third-degree felony of child neglect.

Appellant need not be present for this ministerial correction to the judgment. *See Walton v. State*, 106 So. 3d 522, 529 (Fla. 1st DCA 2013) (“[A] defendant need not be present at resentencing if the error to be corrected is ‘purely ministerial’ or clerical, and involves no exercise of the court’s discretion.”).

LEWIS, B.L. THOMAS, and NORDBY, 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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Joshua Lowery, pro se, Appellant.

Ashley Moody, Attorney General, and Bryan Jordan, Assistant Attorney General, Tallahassee, for Appellee.