

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2014

MARCUS TRAMAINE TERRY,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D12-4291

[November 5, 2014]

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Jeffrey R. Levenson, Judge; L.T. Case No. 11015639 CF10A.

Carey Haughwout, Public Defender, and Ian Seldin, Assistant Public Defender, West Palm Beach, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Mark J. Hamel, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

We agree with appellant that a rule 3.800(b) motion is an appropriate means for asserting an unpreserved procedural error in the sentencing process relating to whether appellant was properly habitualized by the court. *Jackson v. State*, 983 So. 2d 562, 572 (Fla. 2008) (citing *Brannon v. State*, 850 So. 2d 452, 454 (Fla. 2003)). Defendants may raise such constitutional challenges to a sentence in a rule 3.800(b) motion. *Miller v. State*, 788 So. 2d 330, 331 (Fla. 4th DCA 2001). However, we affirm on all other issues raised by appellant on the merits.

Affirmed.

GERBER, LEVINE and KLINGENSMITH, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.