

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

JOSEPH D. BALDINO,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D17-924

[August 2, 2017]

Appeal of order denying rule 3.800(a) motion from the Circuit Court for the Nineteenth Judicial Circuit, St. Lucie County; Gary L. Sweet, Judge; L.T. Case No. 562011CF001300A.

Joseph D. Baldino, Bristol, pro se.

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

PER CURIAM.

In this appeal of a trial court order denying appellant's motion to correct illegal sentence pursuant to Florida Rule of Criminal Procedure 3.800(a), we conclude that the trial court lacked jurisdiction to rule because appellant's direct appeal was also pending in this Court. Therefore, we reverse and remand to the trial court to dismiss the motion without prejudice to appellant's right to refile it after final disposition of the direct appeal. See *Everett v. State*, 993 So. 2d 1116 (Fla. 4th DCA 2008); *Major v. State*, 882 So. 2d 1058 (Fla. 4th DCA 2004); *Campbell-Eley v. State*, 763 So. 2d 539 (Fla. 4th DCA), *rev. denied*, 789 So. 2d 348 (Fla. 2000).

GERBER, C.J., WARNER and KLINGENSMITH, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.