

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*January Term 2006*

**JOSE M. ARCE,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D05-3947

[ July 5, 2006 ]

PER CURIAM.

Jose M. Arce appeals the summary denial of his motion to correct illegal sentence filed pursuant to Florida Rule of Criminal Procedure 3.800(a). We reverse and remand with respect to one of his three claims.

Arce alleged that one of the predicate offenses used to qualify him for habitual offender sentencing was not his conviction. Arce's claim is cognizable in a rule 3.800(a) motion if the error can be determined from the record. *See Bover v. State*, 797 So.2d 1246 (Fla. 2001). Our record does not contain documents to refute this legally sufficient claim. *Sheffield v. State*, 903 So.2d 1009 (Fla. 4th DCA 2005). Accordingly, we reverse and remand for further review of this point.

FARMER, TAYLOR and HAZOURI, JJ., concur.

\* \* \*

Appeal of order denying rule 3.800(a) motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Edward A. Garrison, Judge; L.T. Case No. 96-9653 CFA02.

Jose M. Arce, Crawfordville, pro se.

Charles J. Crist, Jr., Attorney General, Tallahassee, and Claudine M. LaFrance, Assistant Attorney General, West Palm Beach, for appellee.

***Not final until disposition of timely filed motion for rehearing.***