

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2008

SCOTT EARLE,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D08-1516

[October 1, 2008]

PER CURIAM.

The defendant appeals an order denying his third motion for post-conviction relief. Among other issues, he argues that his fifteen-year sentences on four of eight drug charges are illegal. We affirm the trial court's denial of all of the defendant's claims except one. We agree that the fifteen year sentence on count VIII for delivery of Flunatrazepam is illegal. Section 893.13(1)(a)2., under which the defendant was charged, is a third degree felony with a maximum penalty of five years. See §§ 893.13(1)(a)2., 775.082, Fla. Stat. (1995). As to that claim, we reverse and remand the case to the trial court for resentencing on count VIII.

Affirmed in part, reversed in part, and remanded.

STEVENSON, MAY, JJ., and LABARGA, JORGE, Associate Judge.

* * *

Appeal of order denying rule 3.800 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Susan Lebow, Judge; L.T. Case No. 95-21175CF10A.

Scott Earle, Bushnell, pro se.

No appearance for appellee.

Not final until disposition of timely filed motion for rehearing.