

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2011

MARVIN L. HOGAN,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D09-3733

[June 8, 2011]

PER CURIAM.

Marvin L. Hogan alleges, among other claims, that his fifteen-year sentence exceeds the statutory maximum term. Hogan was convicted of a third-degree felony. If sentenced as a habitual offender and prison release reoffender, which may be the case, he could have received a ten-year term. *See* §§ 775.082, 775.084(4)(a), Fla. Stat. (2005). The state argued below that Hogan's sentence was corrected to reflect a ten-year term. None of the documents or transcripts furnished conclusively refute the claim. Consequently, we reverse and remand for the trial court to revisit this claim and to attach additional portions of the record, if available, to refute the claim. The trial court's order denying relief is affirmed in all other respects.

Reversed and remanded.

CIKLIN, GERBER and LEVINE, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Paul L. Backman, Judge; L.T. Case No. 05-014053 CF10A.

Marvin L. Hogan, Indiantown, pro se.

Pamela Jo Bondi, Attorney General, Tallahassee and Daniel P. Hyndman, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.