

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2010

HOWARD MANCIPE,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D10-3484

[September 16, 2010]

PER CURIAM.

The trial court's order denying appellant's Florida Rule of Criminal Procedure 3.800(a) motion to correct illegal sentence is reversed. Under section 948.03(5), Florida Statutes (1993), the one-year term of incarceration is illegal as a period of incarceration imposed as a condition of community control "shall not exceed 364 days." The illegal sentence in this case is not moot. See 8 U.S.C. § 1101(a)(43)(F); 8 U.S.C. § 1101(a)(43)(G). The trial court shall correct the community control and probation orders accordingly.

Reversed and Remanded.

STEVENSON, DAMOORGIAN and GERBER, JJ., concur.

* * *

Appeal of order denying rule 3.800 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Jeffrey R. Levenson, Judge; L.T. Case No. 93-4840 CF10A.

Richard P. Lawson of Gardner, Brewer, Martinez-Monfort, P.A., Tampa, for appellant.

Bill McCollum, Attorney General, Tallahassee, and Don M. Rogers, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.