

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

DAVID PACK,)	
)	
Appellant,)	
)	
v.)	Case No. 2D14-1165
)	
STATE OF FLORIDA,)	
)	
Appellee.)	
_____)	

Opinion filed December 19, 2014.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Pinellas County; Keith Meyer,
Judge.

David Pack, pro se.

PER CURIAM.

On November 13, 1978, David Pack was charged with armed robbery with a firearm. He was tried by jury and found guilty as charged, and the trial court sentenced him to an indeterminate period of three years to life imprisonment. Pack appealed, and this court affirmed his judgment and sentence without written opinion. See Pack v. State, 375 So. 2d 915 (Fla. 2d DCA 1979) (table decision).

On September 23, 2013, Pack filed a motion to correct illegal sentence under Florida Rule of Criminal Procedure 3.800(a), contending that his sentence is

illegal because the only lawful indeterminate sentence under section 921.18, Florida Statutes (1977), required a minimum of six months' imprisonment. See Cox v. State, 344 So. 2d 1324, 1325 (Fla. 2d DCA 1977). On appeal, the State concedes that Pack should be resentenced to an indeterminate term of imprisonment from six months to life. We agree and reverse the portion of the postconviction court's order that summarily denies relief on this claim. We remand for resentencing to an indeterminate term of imprisonment from six months to life. Pack need not be present. See Perry v. State, 347 So. 2d 1093, 1093 (Fla. 2d DCA 1977); Lee v. State, 404 So. 2d 860, 860 (Fla. 1st DCA 1981).

The postconviction court's order is affirmed in all other respects.

Affirmed in part, reversed in part, and remanded.

VILLANTI, CRENSHAW, and BLACK, JJ., Concur.