

IN THE SECOND DISTRICT COURT OF APPEAL, LAKELAND, FLORIDA

February 26, 2020

STATE OF FLORIDA,)	
)	
Appellant,)	
)	
v.)	Case No. 2D19-3209
)	
JONATHAN RYAN SPEARS,)	
)	
Appellee.)	
_____)	
STATE OF FLORIDA,)	
)	
Appellant,)	
)	
v.)	Case No. 2D19-3475
)	
SALEEM O. SIMPSON,)	<u>CONSOLIDATED</u>
)	
Appellee.)	
_____)	

BY ORDER OF THE COURT:

Appellants' motions for written opinions in cases 2D19-3209 and 2D19-3475 are granted. The prior orders, dated October 31, 2019, are withdrawn, and the attached opinion is issued in their place. On its own motion, this court consolidates these cases for the purpose of an opinion. Separate motions for rehearing will be entertained.

I HEREBY CERTIFY THE FOREGOING IS A TRUE COPY OF THE ORIGINAL COURT ORDER.

MARY ELIZABETH KUENZEL, CLERK

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

STATE OF FLORIDA,)
)
Appellant,)
)
v.)
)
JONATHAN RYAN SPEARS,)
)
Appellee.)
_____)

Case No. 2D19-3209

STATE OF FLORIDA,)
)
Appellant,)
)
v.)
)
SALEEM O. SIMPSON,)
)
Appellee.)
_____)

Case No. 2D19-3475

CONSOLIDATED

Opinion filed February 26, 2020.

Appeals from the Circuit Court for Hillsborough County; Barbara Twine Thomas, Judge.

Carolyn Marie Snurkowski, Associate Deputy Attorney General, Tallahassee, and Jonathan D. Tanoos, Assistant Attorney General, Tampa, for Appellant in Case No. 2D19-3209.

Ashley Moody, Attorney General, Tallahassee, and Jonathan D. Tanoos, Assistant Attorney General, Tampa, for Appellant in Case No. 2D19-3475.

No appearance for Appellees.

LaROSE, Judge.

In each of these consolidated appeals, the State appeals an order granting a Florida Rule of Criminal Procedure 3.800(a) motion. Each order found that the defendant was entitled to be resentenced but did not impose a new sentence. For the reasons explained in State v. Rudolf, 821 So. 2d 385 (Fla. 2d DCA 2002), we dismiss these appeals as from nonfinal, nonappealable orders.

We recognize that the First, Fourth, and Fifth Districts have held that such an order is final and appealable. Accordingly, we certify conflict with Magill v. State, 44 Fla. L. Weekly D3041 (Fla. 5th DCA Dec. 20, 2019), German v. State, 284 So. 3d 572 (Fla. 4th DCA 2019), and Simmons v. State, 274 So. 3d 468 (Fla. 1st DCA 2019).

Dismissed. Conflict certified.

LUCAS and BADALAMENTI, JJ., Concur.