

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

MICHAEL WARREN TRUMBOWER,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
 _____)

Case No. 2D02-1719

Opinion filed July 23, 2003.

Appeal from the Circuit Court for Lee
County; R. Wallace Pack, Senior Judge.

James Marion Moorman, Public
Defender, and Allyn M. Giambalvo,
Assistant Public Defender, Bartow, for
Appellant.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Cerese Crawford
Taylor, Assistant Attorney General,
Tampa, for Appellee.

ALTENBERND, Chief Judge.

Michael Warren Trumbower appeals his judgment and sentence for
aggravated assault on a law enforcement officer. We affirm the conviction without

comment. His ten-year sentence of imprisonment includes a three-year minimum mandatory term, which the trial court imposed over Mr. Trumbower's objection while Taylor v. State, 818 So. 2d 544 (Fla. 2d DCA), review dismissed, 821 So. 2d 302 (Fla. 2002), was still pending on rehearing in this court.

Based on Taylor and Green v. State, 839 So. 2d 748 (Fla. 2d DCA 2003), we reverse the minimum mandatory sentence and remand for resentencing in accordance with the valid laws in effect at the time Mr. Trumbower committed his offense. As we did in Green, we certify conflict with Carlson v. State, 27 Fla. L. Weekly D2162 (Fla. 5th DCA Oct. 4, 2002), Lecorn v. State, 832 So. 2d 818 (Fla. 5th DCA 2002), and Jones v. State, 27 Fla. L. Weekly D2377 (Fla. 5th DCA Nov. 1, 2002), and we note possible conflict with Nieves v. State, 833 So. 2d 190 (Fla. 4th DCA 2002), and Green v. State, 832 So. 2d 199 (Fla. 4th DCA 2002). We note that, due to a scrivener's error, the written sentence does not contain the three-year minimum mandatory term that was orally imposed by the trial court. If the trial court determines that Mr. Trumbower's ten-year sentence is lawful and that the only change required by this opinion is to remove the minimum mandatory term, Mr. Trumbower need not be present for resentencing.

Affirmed in part; reversed in part; remanded; conflict certified.

SILBERMAN and COVINGTON, JJ., Concur.