

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

ROOSEVELT MARION, JR.,)	
)	
Appellant,)	
v.)	Case No. 2D02-558
)	
STATE OF FLORIDA,)	
)	
Appellee.)	
_____)	

Opinion filed July 23, 2003.

Appeal from the Circuit Court for Charlotte
County; William L. Blackwell, Judge.

James Marion Moorman, Public Defender,
and Timothy J. Ferreri, Assistant Public
Defender, Bartow, for Appellant.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Robert J. Krauss, Sr.
Assistant Attorney General, Tampa, for
Appellee.

CASANUEVA, Judge.

Roosevelt Marion, Jr.'s Anders¹ counsel pointed out that the sentencing documents erroneously reflect that Mr. Marion is to serve a three-year habitual felony offender sentence consecutive to an eight-year guidelines term. When habitual and

¹ Anders v. California, 386 U.S. 738 (1967); In re Appellate Court Response to Anders Briefs, 581 So. 2d 149 (Fla. 1991); State v. Davis, 290 So. 2d 30 (Fla. 1974).

guidelines sentences are imposed consecutively, the habitual sentence is to be served first to preserve the defendant's entitlement, if any, to control release. Hall v. State, 821 So. 2d 1154, 1155 (Fla. 2d DCA 2002) (citing Smith v. State, 632 So. 2d 95, 97 (Fla. 2d DCA 1994)). Because this appears to be a scrivener's error, we remand for correction of the sentence to reflect that the eight-year term on count one for possession of cocaine with intent to sell be served consecutive to the three-year habitual offender term on count two for sale of cocaine.

Remanded for correction of sentence; affirmed in all other respects.

WHATLEY and SILBERMAN, JJ., Concur.