

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

TRACY LINDA HALL,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
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 STATE OF FLORIDA,)
)
 Appellant,)
)
 v.)
)
 TRACY LINDA HALL,)
)
 Appellee.)
 _____)

Case No. 2D02-793

Case No. 2D02-1569

CONSOLIDATED

Opinion filed June 4, 2003.

Appeal from the Circuit Court for Polk
County; Susan W. Roberts, Judge.

James Marion Moorman, Public
Defender, and Allyn M. Giambalvo,
Assistant Public Defender, Bartow, for
Tracy Linda Hall.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Ronald Napolitano,
Assistant Attorney General, Tampa, for
State.

ALTENBERND, Chief Judge.

Tracy Linda Hall appeals her judgment and sentence for one count of trafficking in amphetamine. See § 893.135, Fla. Stat. (2001). The offense occurred on May 15, 2001. She pleaded nolo contendere to this charge and received a sentence of three years' imprisonment including a three-year minimum mandatory term. While Ms. Hall's direct appeal was pending, she filed a motion pursuant to Florida Rule of Criminal Procedure 3.800(b)(2) to correct a sentencing error. She maintained that the minimum mandatory term could not be imposed in light of this court's opinion in Taylor v. State, 818 So. 2d 544 (Fla. 2d DCA 2002). The trial court granted the motion and resentenced her to three years in prison without a minimum mandatory term.

As a result of the successful rule 3.800(b)(2) motion, Hall's counsel filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967). We affirm her appeal.

As a result of the successful rule 3.800(b)(2) motion, the State appealed the order granting relief and the new sentence, arguing that chapter 2002-212, Laws of Florida, provided for retroactive application of the statute. We rejected this argument in Green v. State, 839 So. 2d 748 (Fla. 2d DCA 2003). But see Clayton v. State, 28 Fla. L. Weekly D921 (Fla. 5th DCA Apr. 11, 2003). Accordingly, we affirm the State's appeal.

Affirmed.

SALCINES and COVINGTON, JJ., Concur.