

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

JESSE R. ALLEN, a/k/a JESSIE R.)
ALLEN,)
)
Appellant,)
)
v.)
)
STATE OF FLORIDA,)
)
Appellee.)
_____)

Case No. 2D03-245

Opinion filed June 6, 2003.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Pasco County; Wayne L. Cobb,
Judge.

SALCINES, Judge.

Jesse R. Allen, a/k/a Jessie R. Allen, appeals the summary denial of his motion filed pursuant to Florida Rule of Criminal Procedure 3.800(a). We reverse.

Allen was sentenced to consecutive prison terms as a habitual offender in 1989. Under certain circumstances which appear to be applicable in the present case, such a sentence became illegal after Hale v. State, 630 So. 2d 521 (Fla. 1993). See Adams v. State, 755 So. 2d 678, 680 (Fla. 2d DCA 1999). The supreme court stated, in

State v. Callaway, 658 So. 2d 983, 987 (Fla. 1995), that Hale should be applied retroactively.

Allen has filed a facially sufficient motion which alleges that the application of the rule in Hale may be determined without resort to extra-record facts. See Allen v. State, 779 So. 2d 471 (Fla. 2d DCA 2000). We therefore reverse the circuit court's order and remand for the circuit court to review the record in accordance with Allen's prior appeal. If his motion is supported by the record, Allen must be resentenced in accordance with Hale.

Reversed and remanded.

CASANUEVA and COVINGTON, JJ., Concur.