

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

MICHAEL McCAIN,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
)
 _____)

Case No. 2D06-1967

Opinion filed December 20, 2006.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Hillsborough County; Chet A. Tharpe,
Judge.

CANADY, Judge.

Michael McCain challenges the postconviction court's denial of his motion to correct illegal sentence filed pursuant to Florida Rule of Criminal Procedure 3.800(a). McCain contends that the sentence he received for one charge of lewd or lascivious act (count 5), see § 800.04(4), Fla. Stat. (2002), exceeded the fifteen-year statutory maximum. Because the attachments do not support the postconviction court's denial order, we reverse.

The written sentence attached to the denial order supports McCain's factual assertion that, on count 5, he was sentenced to ten years' imprisonment followed by ten years' probation. Ordinarily, the second-degree felony offense at issue is subject to the statutory maximum sentence of fifteen years. See § 800.04(4); § 775.082(3)(c), Fla. Stat. (2002). Pursuant to section 921.0024(2), Florida Statutes (2002), however, depending on the offender's scoresheet, the "lowest permissible sentence" under the Criminal Punishment Code may exceed the statutory maximum. See Thomas v. State, 909 So. 2d 601, 601 (Fla. 2d DCA 2005); State v. Ayers, 901 So. 2d 942, 945-46 (Fla. 2d DCA 2005). Here, the record before us—which does not contain the sentencing scoresheet or the transcript of the sentencing hearing—is insufficient to establish whether the sentence imposed on McCain was authorized pursuant to section 921.0024(2). Accordingly, we reverse and remand for further proceedings.

Reversed and remanded.

STRINGER and LaROSE, JJ., Concur.