

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

JACOB WESLEY SCOTT)

Appellant,)

v.)

STATE OF FLORIDA)

Appellee.)

Case No. 2D07-3749

Opinion filed February 29, 2008.

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

PER CURIAM.

Jacob Wesley Scott appeals the summary denial of his motion filed pursuant to Florida Rule of Criminal Procedure 3.800(a). Mr. Scott filed the motion on July 7, 2007, while the direct appeal of his judgment and sentence in the same case was pending. Thus, the postconviction court improperly denied the motion rather than striking it as unauthorized. See Ladson v. State, 907 So. 2d 1288 (Fla. 2d DCA 2005). We reverse and remand for the postconviction court to strike the unauthorized motion.

Once the mandate issues on his direct appeal, Mr. Scott may file a rule 3.800(a) motion on the same issue should he seek further relief. See id.

Reversed and remanded with instructions.

FULMER, CASANUEVA, and CANADY, JJ., Concur.