

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

JOHN WILLIAM BUTLER, JR.,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
)
 _____)

Case No. 2D07-5875

Opinion filed April 4, 2008.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Polk County; Randall G. McDonald,
Judge.

PER CURIAM.

John Butler timely appeals the denial of a motion to define or clarify his sentence, which this court has considered as a motion filed pursuant to Florida Rule of Criminal Procedure 3.850. The transcript of the April 14, 2005, sentencing hearing shows that Mr. Butler's sentence was imposed concurrently with any other existing

sentence. The sentencing court orally pronounced: "This will also be concurrent with any other sentence that you're presently under."

However, the written sentence states that it was imposed concurrent with "Specific Sentences (Federal Sentence)" and not concurrent with "Any Active Sentence Being Served." This is a scrivener's error which must be corrected. Accordingly, the order of the postconviction court is reversed and remanded with directions for the court to amend Mr. Butler's sentence to be concurrent with any active sentence being served.

Reversed and remanded with directions.

ALTENBERND, CASANUEVA, and SILBERMAN, JJ., Concur.