

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

DONALD SPAULDING,)	
)	
Appellant,)	
)	
v.)	Case No. 2D01-1549
)	
STATE OF FLORIDA,)	
)	
Appellee.)	
_____)	

Opinion filed August 15, 2001.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court
for Sarasota County;
Nancy K. Donnellan, Judge.

STRINGER, Judge.

Donald Spaulding appeals the summary denial of his motion to correct illegal sentence filed pursuant to Florida Rule of Criminal Procedure 3.800(a). Spaulding alleged that he was entitled to be resentenced pursuant to Heggs v. State, 759 So. 2d 620 (Fla. 2000). The trial court summarily denied this claim finding that Spaulding's sentence

was still within the 1994 guidelines range. See Heggs, 759 So. 2d at 627. The trial court, however, failed to attach copies of the 1994 or the 1995 sentencing guidelines scoresheets. We reverse.

A trial court must attach copies of both the 1994 and 1995 guidelines in order to conclusively refute a defendant's claim that resentencing is necessary pursuant to Heggs. Howell v. State, 26 Fla. L. Weekly D889 (Fla. 2d DCA Mar. 28, 2001). Because the trial court failed to attach the required scoresheets, Spaulding's claim has not been conclusively refuted. Accordingly, we reverse the order of the trial court and remand for further proceedings. If the trial court again denies Spaulding's claim, it shall attach those portions of the record which conclusively refute his claim.

Reversed and remanded.

FULMER, A.C.J., and GREEN, J., Concur.