

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

ALBERT BROWN,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
_____)

CASE NO. 2D01-3527

Opinion filed December 7, 2001.

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

DAVIS, Judge.

Albert Brown appeals the summary denial of his Florida Rule of Criminal
Procedure 3.800(a) motion. We reverse.

Brown was sentenced for several crimes in 1984. In his motion Brown
claimed that the sentencing court's retention of jurisdiction over the first one-third of one of
the sentences is illegal. The trial court denied the motion as successive.

Although our analysis of this case differs from Brown's analysis, it appears from the record before this court that the sentencing court's retention of jurisdiction is indeed impermissible. Both Brown and the trial court referred to Brown's sentencing guidelines scoresheet in prior documents attached to the trial court's order denying relief. If Brown was sentenced pursuant to the sentencing guidelines, retention of jurisdiction over any portion of his sentence is impermissible. See Fisher v. State, 745 So. 2d 1092 (Fla. 2d DCA 1999). Consequently, the trial court must determine whether Brown was sentenced pursuant to the guidelines, and if so, it must strike the retention of jurisdiction from the judgment and sentence.

Reversed and remanded.

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