

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

MICHAEL S. HEIM,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
 _____)

CASE NO. 2D01-3554

Opinion filed December 7, 2001.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court
for Polk County;
Susan W. Roberts, Judge.

SALCINES, Judge.

Michael S. Heim appeals the summary denial of his motion to correct illegal sentence filed pursuant to Florida Rule of Criminal Procedure 3.800(a). We affirm the trial court's order without prejudice to Heim's right to file a properly sworn rule 3.850 motion alleging that the time he spent at a drug treatment center was the functional equivalent of

jail. See Tennell v. State, 787 So. 2d 65 (Fla. 2d DCA 2001); Columbro v. State, 777 So. 2d 1208 (Fla. 5th DCA 2001).

Affirmed.

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