

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

KEITH DIXON,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
_____)

CASE NO. 2D01-4980

Opinion filed December 28, 2001.

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

WHATLEY, Acting Chief Judge.

Keith Rashad Dixon appeals the dismissal of his motion for reduction or
modification of sentence filed pursuant to Florida Rule of Criminal Procedure 3.800(c).

We convert this appeal to a petition for writ of certiorari and grant the petition.

Dixon initially filed a direct appeal from a final judgment and sentence. The
case was affirmed on June 1, 2001. Dixon v. State, 790 So. 2d 414, (Fla. 2d DCA 2001)
(table). The mandate was issued on June 26, 2001. Dixon then filed a timely rule 3.800(c)

motion on July 26, 2001. The trial court dismissed the 3.800(c) motion because the court mistakenly believed that the mandate had not yet been issued. Since the mandate had been issued, the trial court had jurisdiction to hear the motion, and thus, the trial court departed from the essential requirements of law by dismissing the motion. See Johnson v. State, 776 So. 2d 1026, 1026 (Fla. 1st DCA 2001).

We grant the petition for writ of certiorari and direct the trial court to rule on the merits of Dixon's motion for reduction or modification of sentence filed pursuant to rule 3.800(c).

Petition granted.

COVINGTON, J., and THREADGILL, EDWARD F., SENIOR JUDGE, Concur.