

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

JUAN J. BERNAL,)	
)	
Appellant,)	
)	
v.)	CASE NO. 2D04-3074
)	
STATE OF FLORIDA,)	
)	
Appellee.)	
_____)	

Opinion filed November 5, 2004.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Hillsborough County; Anthony K. Black,
Judge.

FULMER, Judge.

Juan J. Bernal appeals the denial of his motion to correct illegal sentence filed pursuant to Florida Rule of Criminal Procedure 3.800(a). We reverse and remand to the trial court.

In its order denying Juan J. Bernal's motion, the trial court inadvertently relied on a previous motion filed by Bernal's brother, Johnny Bernal. Therefore, Juan J.

Bernal's motion was never addressed on the merits. Accordingly, we reverse the order of the trial court and remand for the trial court to rule on the merits of Juan J. Bernal's motion.

Reverse and remanded.

ALTENBERND, C.J., and CASANUEVA, J., Concur.