

# Supreme Court of Florida

THURSDAY, DECEMBER 5, 2013

## **CORRECTED ORDER**

CASE NO(S).: SC11-1679

IN RE: AMENDMENTS TO THE FLORIDA RULES OF CRIMINAL  
PROCEDURE AND THE FLORIDA RULES OF APPELLATE PROCEDURE

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The Criminal Court Steering Committee's Motion for Rehearing and Clarification is hereby granted in part, as discussed below.

Florida Rule of Criminal Procedure 3.800(a) is replaced with the following language:

(a) Correction. A court may at any time correct an illegal sentence imposed by it, or an incorrect calculation made by it in a sentencing scoresheet, when it is affirmatively alleged that the court records demonstrate on their face an entitlement to that relief, provided that a party may not file a motion to correct an illegal sentence under this subdivision during the time allowed for the filing of a motion under subdivision (b)(1) or during the pendency of a direct appeal. A defendant may seek correction of an allegedly erroneous sexual predator designation under this subdivision, but only when it is apparent from the face of the record that the defendant did not meet the criteria for designation as a sexual predator. All orders denying motions under this subdivision shall include a statement that the movant has the right to appeal within 30 days of rendition of the order.

The issue of successive motions under rule 3.800(a) and forms for use in postconviction proceedings will be referred to the Florida Bar's Criminal Procedure Rules Committee.

Florida Rule of Criminal Procedure 3.800(b)(1)(B), as amended in the Court's April 18, 2013, opinion in this case, is replaced with the following language:

(B) Unless the trial court determines that the motion can be resolved as a matter of law without a hearing, it shall hold a calendar call no later than 20 days from the filing of the motion, with notice to all parties, for the express purpose of either ruling on the motion or determining the need for an evidentiary hearing. If an evidentiary hearing is needed, it shall be set no more than 20 days from the date of the calendar call. Within 60 days from the filing of the motion, the trial court shall file an order ruling on the motion. If no order is filed within 60 days, the motion shall be considered denied. A party may file a motion for rehearing of any order entered under subdivisions (a) and (b) of this rule within 15 days of the date of service of the order or within 15 days of the expiration of the time period for filing an order if no order is filed. A response may be filed within 10 days of service of the motion. The trial court's order disposing of the motion for rehearing shall be filed within 15 days of the response but not later than 40 days from the date of the order of which rehearing is sought. If no order is filed within 40 days, the motion is deemed denied. A timely filed motion for rehearing shall toll rendition of the order subject to appellate review and the order shall be deemed rendered 40 days from the order of which rehearing is sought, or upon the filing of a written order denying the motion for rehearing, whichever is earlier.

The Court declines to further amend subdivision (h).

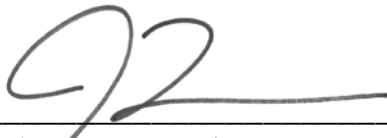
Florida Rule of Appellate Procedure 9.140(c)(1)(J), as amended in the Court's April 18, 2013, opinion in this case, is replaced with the following language:

(J) granting relief under Florida Rule of Criminal Procedure 3.801, 3.850, 3.851, or 3.853;

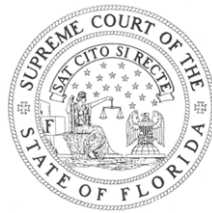
Full opinion to follow.

POLSTON, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, LABARGA,  
and PERRY, JJ., concur.

A True Copy  
Test:



John A. Tomasino  
Clerk, Supreme Court



Served:

ANDREW MCBRIDE STANTON  
JIMMIE LEE TENNANT  
ARTHUR IVAN JACOBS  
MICHAEL J. MINERVA  
JAMIE BILLOTTE MOSES  
HON. JAMES C. HANKINSON, JUDGE  
KRIS EDWARD HELTON  
GLEN PHILLIP GIFFORD  
SCOTT N. ERRICO  
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MICHAEL ROBERT UFFERMAN  
BART SCHNEIDER  
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SONYA RUDENSTINE  
DAVID W. TALLEY  
MARK CALIEL  
JONATHAN N. DIAMENT  
HEATHER SAVAGE TELFER  
JOHN F. HARKNESS, JR.  
HON. KEVIN M. EMAS, JUDGE