

Third District Court of Appeal

State of Florida

Opinion filed December 31, 2014.
Not final until disposition of timely filed motion for rehearing.

No. 3D14-1296
Lower Tribunal No. 09-35363

Ariel Bueno,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Miami-Dade County, Ariana Fajardo, Judge.

Ariel Bueno, in proper person.

Pamela Jo Bondi, Attorney General, and Jacob Addicott, Assistant Attorney General, for appellee.

Before ROTHENBERG, EMAS and FERNANDEZ, JJ.

PER CURIAM.

Appellant, Ariel Bueno, appeals from an order denying his motion to correct illegal sentence pursuant to Florida Rule of Criminal Procedure 3.800(a). After Bueno filed his initial brief, we directed the State to file an answer brief addressing whether the judgment and sentence accurately reflects the oral pronouncement made by the trial court at the time of sentencing. In its answer brief, the State acknowledges that the judgment and sentence do not conform to the trial court's oral pronouncement, but correctly points out that Bueno did not raise this issue in the trial court, and we therefore do not consider it on appeal. Stangarone v. State, 94 So. 3d 652 (Fla. 4th DCA 2012).

As to the issues which Bueno did raise in his motion below and on appeal, we find they are without merit and affirm the trial court's order denying same. Our affirmance is without prejudice to Bueno filing a motion to correct illegal sentence to the extent the written judgment and sentence conflicts with the oral pronouncement. See Williams v. State, 957 So. 2d 600 (Fla. 2007) (holding that where it is apparent from the face of the record that a written sentence conflicts with the oral pronouncement, relief is properly sought by a motion to correct illegal sentence under rule 3.800(a)).

Affirmed without prejudice.