

# **Third District Court of Appeal**

## **State of Florida**

Opinion filed November 23, 2016.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D16-2363  
Lower Tribunal No. 97-29656

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**Herby Luma, a/k/a Ronet Bastien,**  
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, Daryl E. Trawick, Judge.

Herby Luma, a/k/a Ronet Bastien, in proper person.

Pamela Jo Bondi, Attorney General, for appellee.

Before WELLS, LAGOA and LOGUE, JJ.

WELLS, Judge.

Herby Luma appeals an order striking his motion to correct an illegal sentence under Florida Rule of Criminal Procedure 3.800(a). The trial court's basis for striking the motion was that it had precluded him from filing further pleadings without an authorized signature from a member of the Florida Bar. However, while the court below issued a rule to show cause why Luma should not be prohibited from the filing of further pro se motions attacking his convictions and sentences in this case, neither the scant appellate record before us nor the lower court docket conclusively confirm that the lower court ever entered an order prohibiting him from such pro se filings.

We treat the instant appeal of the order striking Luma's motion as an appeal from the summary denial of a motion for postconviction relief. See Cruz v. State, 981 So. 2d 1272, 1273 (Fla. 3d DCA 2008). On appeal from a summary denial, this court must reverse unless the postconviction record, see Fla. R. App. P. 9.141(b)(2)(A), shows conclusively that the appellant is entitled to no relief. See Fla. R. App. P. 9.141(b)(2)(D). Because the record now before us fails to make the required showing, we reverse the order now before us and remand for further proceedings. If the trial court again enters an order summarily denying the postconviction motion, the court shall attach record excerpts conclusively showing that Luma is not entitled to any relief.

Reversed and remanded for further proceedings.