

Third District Court of Appeal

State of Florida

Opinion filed September 25, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D19-1192
Lower Tribunal No. 97-29656

Herby Luma,
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, Victoria Del Pino, Judge.

Herby Luma, in proper person.

Ashley Moody, Attorney General, for appellee.

Before SCALES, LINDSEY and LOBREE, JJ.

PER CURIAM.

Petitioner Herby Luma (a/k/a Ronet Bastien, a/k/a Jay Eric Hudes) appeals an order of the Miami-Dade County Circuit Court, dated May 9, 2019, titled, "Order

Denying Defendant's Successive Motion to Correct Illegal Sentence." For the reasons stated herein, we affirm this order and issue an order to show cause.

On May 6, 1998, in lower tribunal case number 97-29656, a jury found Luma guilty of seven counts of burglary, grand theft, criminal mischief and possession of burglary tools. The trial court sentenced Luma on the two burglary counts to forty years in prison, with a thirty-year minimum mandatory sentence, determining that Luma was a violent career criminal pursuant to section 775.084(1)(c) and (4)(c) of the Florida Statutes (1997). This Court affirmed the sentence in Luma v. State, 739 So. 2d 709 (Fla. 3d DCA 1999). Since his conviction, Luma has filed numerous appeals and petitions to this Court¹ to correct what he considers to be an illegal sentence.

¹ Luma v. State, 225 So. 3d 821 (Fla. 3d DCA 2017) (table); Luma v. State, 166 So. 3d 791 (Fla. 3d DCA 2015) (table); Luma v. State, 160 So. 3d 440 (Fla. 3d DCA 2015) (table); Luma v. State, 138 So. 3d 455 (Fla. 3d DCA 2014) (table); Luma v. State, 118 So. 3d 233 (Fla. 3d DCA 2013) (table); Luma v. State, 93 So. 3d 1038 (Fla. 3d DCA 2012) (table); Bastien v. State, 85 So. 3d 493 (Fla. 3d DCA 2012) (table); Bastien v. State, 77 So. 3d 1268 (Fla. 3d DCA 2011) (table); Luma v. State, 72 So. 3d 762 (Fla. 3d DCA 2011) (table); Luma v. State, 41 So. 3d 907 (Fla. 3d DCA 2010) (table); Luma v. State, 36 So. 3d 107 (Fla. 3d DCA 2010) (table); Luma v. State, 13 So. 3d 1065 (Fla. 3d DCA 2009) (table); Luma v. State, 942 So. 2d 889 (Fla. 3d DCA 2006) (table); Luma v. State, 919 So. 2d 453 (Fla. 3d DCA 2006) (table); Luma v. State, 903 So. 2d 302 (Fla. 3d DCA 2005); Luma v. State, 895 So. 2d 1202 (Fla. 3d DCA 2005); Luma v. State, 876 So. 2d 1210 (Fla. 3d DCA 2004) (table); Luma v. State, 860 So. 2d 428 (Fla. 3d DCA 2003) (table); Luma v. State, 826 So. 2d 308 (Fla. 3d DCA 2002) (table). This Court's records indicate an additional petition in case number 3D16-255, whose outcome is not reported. Further, in December of 2014, the circuit court issued a rule to show cause why Luma should not be prohibited from filing additional *pro se* pleadings, but the circuit

The record reflects that, in 2012, the circuit court granted Luma a new sentencing hearing. The trial court again determined that Luma was a violent career criminal, as defined in section 775.084 of the Florida Statutes, and again sentenced Luma to a forty-year term, with a thirty-year minimum mandatory.

We have considered Luma's appeal in the instant case and have reviewed a record that is distinctive for its repetition. We agree with both findings of the trial court: (1) at this stage, Luma may not use a rule 3.800 motion to challenge either his 1998 sentence or his 2012 re-sentencing, as they were authorized by law, see Paris v. State, 156 So. 3d 578, 578 (Fla. 3d DCA 2015); and (2) it was not necessary for the State to re-introduce evidence at the 2012 hearing in view of the trial court's limited purpose of determining whether it would exercise discretion to impose an alternate sentence.

ORDER TO SHOW CAUSE

Luma is hereby directed to show cause, within forty-five days of the date of this opinion, as to why he should not be prohibited from filing further *pro se* appeals, petitions, motions or other pleadings related to his convictions in lower tribunal case number F97-29656.

court appears not to have followed through with a final order. This led to two more appeals to this Court in Luma v. State, 237 So. 3d 1126 (Fla. 3d DCA 2018) and Luma v. State, 208 So. 3d 226 (Fla. 3d DCA 2016).

If Luma does not demonstrate good cause, we will direct the Clerk of this Court not to accept any such filings unless they have been reviewed by, and bear the signature of, a licensed attorney in good standing with the Florida Bar.

Affirmed; order to show cause issued.