

Third District Court of Appeal

State of Florida, July Term, A.D. 2011

Opinion filed October 12, 2011.
Not final until disposition of timely filed motion for rehearing.

No. 3D11-2229
Lower Tribunal No.: 07-4426

Latoya Mahoney-Smith,
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, Leon M. Firtel, Judge.

Latoya Mahoney-Smith, in proper person.

Pamela Jo Bondi, Attorney General, for appellee.

Before WELLS, C.J., and FERNANDEZ, J., and SCHWARTZ, Senior Judge.

FERNANDEZ, J.

This matter is before the Court on the denial of a “Motion for Rehearing Sentencing and Probation not in Compliance with Oral and Written

Pronouncement.” We treat this appeal from that order as an appeal from the denial of a rule 3.800 motion for post-conviction relief. Because we conclude that the trial court’s written judgment is consistent with the court’s oral pronouncement at sentencing, we affirm.

The sole basis for appellant Latoya Mahoney-Smith’s motion for rehearing below was that the trial court’s sentence was inconsistent with the oral and written pronouncement and that there were multiple scrivener’s errors in the written sentence. Mahoney-Smith is mistaken. At the sentencing hearing on December 13, 2007, the trial court orally pronounced sentence as a Habitual Violent Felony Offender as follows:

I will sentence you as a habitual violent offender to ten years State prison with a minimum mandatory five years to be followed by ten years of probation.

The written sentence imposed on December 24, 2007 conforms with the court’s oral pronouncement at sentencing, and thus there is no sentencing error.

We decline to address the other issues Mahoney-Smith raises in her Initial Brief, as these issues are meritless.¹

Affirmed.

¹ Mahoney-Smith has been before this Court twice before, challenging her conviction and sentence. She first appealed her conviction and sentence, which this Court affirmed. See Mahoney-Smith v. State, 7 So. 3d 644 (Fla. 3d DCA 2009). She then filed a subsequent appeal, which this Court ultimately dismissed.