

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JULY TERM, A.D. 2001

SONNFRED BAPTISTE,

**

Appellant,

**

vs.

**

CASE NO. 3D01-1242

THE STATE OF FLORIDA,

**

LOWER

TRIBUNAL NO. 00-5464

Appellee.

**

Opinion filed August 22, 2001.

An appeal under Fla. R. App. P. 9.141(b)(2) from the Circuit Court for Dade County, Marilyn Milian, Judge.

Sonnfred Baptiste, in proper person.

Robert A. Butterworth, Attorney General, and Consuelo Maingot, Assistant Attorney General, for appellee.

Before COPE and GERSTEN, JJ., and NESBITT, Senior Judge.

PER CURIAM.

Sonnfred Baptiste appeals an order denying his motion to correct illegal sentence under Florida Rule of Criminal Procedure 3.800(a). The State concedes that the order must be

reversed.

Defendant-appellant Baptiste entered into a plea bargain pursuant to which he was given a split sentence as a youthful offender to a term of five years incarceration followed by one year of community control. The State acknowledges that the incarcerative period for a split youthful offender sentence cannot exceed four years. § 958.04(2)(c), (d), Fla. Stat. (1999)*; Collado v. State, 776 So. 2d 355, 356 (Fla. 3d DCA 2001). We reverse the order now under review and remand for resentencing within legal limits, or alternatively to allow defendant to withdraw his plea and proceed to trial. Collado, 776 So. 2d at 356.

Reversed and remanded for further proceedings consistent herewith.

* The crime date was January 26, 2000.