

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JANUARY TERM, 2002

THE STATE OF FLORIDA,

**

Appellant,

**

vs.

** CASE NO. 3D01-1920

ALEXANDER SUAREZ,

** LOWER

Appellee.

** TRIBUNAL NO. 95-24786

**

Opinion filed June 12, 2002.

An Appeal from the Circuit Court for Dade County, Peter R. Lopez, Judge.

Robert A. Butterworth, Attorney General, and Andrea D. England, Assistant Attorney General (Ft. Lauderdale), for appellant.

Alexander Suarez, in proper person.

Before LEVY, GERSTEN, and GREEN, JJ.

PER CURIAM.

After it properly denied Defendant's Motion to Correct Illegal Sentence under Florida Rule of Criminal Procedure 3.800, the trial court erroneously decided to treat Defendant's Motion as a timely

Rule 3.850 Motion pursuant to Wood v. State, 750 So. 2d 592 (Fla. 1999), and found that a prima facie case was made that required an evidentiary hearing on the Defendant's allegations. The Defendant correctly concedes that the trial court erred in ruling that Wood applied to him. See Walker v. State, 799 So. 2d 275, 276 (Fla. 2d DCA 2001).

Accordingly, we reverse the Order under review and remand with directions to enter an order denying Defendant's Motion pursuant to Rule 3.800.

Reversed and remanded with directions.