

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

ENRIQUE GARCIA

**

Appellant,

**

vs.

** CASE NO. 3D01-2003

THE STATE OF FLORIDA,

** LOWER

TRIBUNAL NOS. 94-39225

Appellee.

**

94-39224A

Opinion filed October 24, 2001.

An Appeal under Fla. R. App. P. 9.141(b)(2) from the Circuit Court for Miami-Dade County, Lawrence A. Schwartz, Judge.

Enrique Garcia, in proper person.

Robert A. Butterworth, Attorney General, and Meredith L. Balo, Assistant Attorney General, for appellee.

Before SCHWARTZ, C.J., and FLETCHER and SORONDO, JJ.

CONFESSION OF ERROR

PER CURIAM.

Upon the state's proper confession of error, we reverse the denial of Enrique Garcia's rule 3.800 motion for post conviction relief as to the habitual violent offender sentences imposed upon him for life felony convictions stemming from offenses committed before October 1, 1995. See Lamont v. State, 610 So. 2d 435 (Fla. 1992); Omound v. State, 743 So. 2d 616 (Fla. 3d DCA 1999).

On remand, Garcia is to be re-sentenced on count three (kidnaping with a weapon) in case number 94-39224A, and count four (kidnaping with a weapon) in case number 94-39225. The balance of

the order denying defendant's rule 3.800(a) motion is affirmed.

Accordingly, we affirm the order in part, reverse in part and remand with instructions.