

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

VERNON LANARD JORDAN,  
Appellant,  
vs.  
THE STATE OF FLORIDA,  
Appellee.

\*\*  
\*\* CASE NO. 3D01-97  
\*\* LOWER  
\*\* TRIBUNAL NO. 96-13156  
\*\*

Opinion filed October 10, 2001.

An Appeal under Fla. R. App. P. 9.141(b)(2) from the Circuit Court for Dade County, Roberto Pineiro, Judge.

Vernon Lanard Jordan, in proper person.

Robert A. Butterworth, Attorney General, and Kristine Keaton, Assistant Attorney General, for appellee.

Before JORGENSON, GODERICH, and SHEVIN, JJ.

PER CURIAM.

Based upon the State's proper confession of error, we vacate defendant's amended sentence in case number 96-13156 and remand for resentencing. When the trial court resentenced defendant in August 2000 pursuant to Heggs v. State, 759 So. 2d 620 (Fla. 2000), it committed fundamental error in entering the amended sentence in

defendant's absence and without holding a sentencing hearing, as the resentencing required more than a ministerial act. See Ingram v. State, 789 So. 2d 430 (Fla. 4th DCA 2001) (holding that where defendant's original sentence was above sentence that could be imposed without departure under 1994 guidelines, resentencing that involved more than ministerial act was required); Dougherty v. State, 785 So. 2d 1221 (Fla. 4th DCA 2001)(holding that resentencing defendant in absentia and without holding hearing amounts to fundamental error when resentencing requires more than ministerial act).

Reversed and remanded for further proceedings consistent with this opinion.