

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. 2002

JAMES WITHERSPOON,

**

Appellant,

**

vs.

**

CASE NO. 3D02-770

MICHAEL W. MOORE, Secretary
of Florida Department of
Corrections, Etc.

**

LOWER

TRIBUNAL NO. 92-16988

**

Appellee.

**

Opinion filed August 28, 2002.

A case of original jurisdiction - Habeas Corpus.

James Witherspoon, in proper person.

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

Before JORGENSON, COPE and SORONDO, JJ.

PER CURIAM.

We accept the State's confession of error and grant the
petition for writ of habeas corpus. We remand to the trial court
to correct petitioner's sentence by eliminating the three-year
minimum mandatory in lower court case number 92-16988, thus
conforming the written judgment of sentence to the oral

pronouncement of the trial judge at time of sentencing.

Petition granted.