

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

LUCIOUS KELVIN THOMAS,

**

Appellant,

**

vs.

**

CASE NO. 3D02-945

THE STATE OF FLORIDA,

**

LOWER

Appellee.

**

TRIBUNAL NO. 90-44628

Opinion filed July 31, 2002.

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

Lucious Kelvin Thomas, in proper person.

Robert A. Butterworth, Attorney General, and Erin K. Zack, Assistant Attorney General, for appellee.

Before COPE, GREEN and RAMIREZ, JJ.

PER CURIAM.

Lucious Kelvin Thomas appeals an order denying his motion to correct illegal sentence which he filed in March 2000. We affirm.

Defendant-appellant Thomas claims that there is a scoring error, see Fla. R. Crim. P. 3.800(a), with regard to the offense of

second degree murder with a firearm. Second degree murder with a firearm is a life felony. See §§ 782.04(2), 775.087(1), Fla. Stat. (1989); Simmons v. State, 758 So. 2d 1270 (Fla. 3d DCA 2000). The offense was correctly scored.

Defendant's attack on his plea entered in six cases in 1986 was the subject of a previous request for postconviction relief. Relief from the 1986 pleas was denied, and this court affirmed. Thomas v. State, 668 So. 2d 621 (Fla. 3d DCA 1996). Defendant's reiteration of that claim in his current motion is procedurally barred.

Affirmed.