

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, A.D. 2004

ROGELIO GARCIA,

**

Appellant,

**

vs.

**

CASE NO.:3D03-3252

LOWER

THE STATE OF FLORIDA,

**

TRIBUNAL NO.:96-20274

Appellee.

**

Opinion filed February 25, 2004.

An appeal under Fla. R. App. P. 9.141(b)(2) from the Circuit Court for Miami-Dade County, Daryl E. Trawick, Judge.

Rogelio Garcia, in proper person.

Charles J. Crist, Jr., Attorney General, and Marni A. Bryson, Assistant Attorney General, for appellee.

Before LEVY, GERSTEN, and WELLS, JJ.

PER CURIAM.

Based on the State's concession, on remand the defendant's sentence shall be corrected to delete the three (3) year minimum mandatory sentence attached to defendant's manslaughter

conviction and to resentence him to a straight term of nineteen (19) years as an habitual felony offender. In all other respects, the order denying defendant's 3.850 motion is affirmed.