

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, 2006

ANDREW A. REDDING,

**

Appellant,

**

vs.

** CASE NO. 3D06-2612

THE STATE OF FLORIDA,

**

Appellee.

** LOWER
TRIBUNAL NO. 95-33572

**

Opinion filed December 20, 2006.

An Appeal under Florida Rule of Appellate Procedure
9.141(b)(2) from the Circuit Court for Miami-Dade County,
Jacqueline Hogan Scola, Judge.

Andrew A. Redding, in proper person.

Charles J. Crist, Jr., Attorney General, for appellee.

Before WELLS, SUAREZ, and ROTHENBERG, JJ.

ROTHENBERG, Judge.

Andrew A. Redding ("defendant") appeals the summary denial
of his motion to correct an illegal sentence filed pursuant to

Florida Rule of Criminal Procedure 3.800(a). In his motion the defendant alleges that he was resentenced without being present and without representation of counsel. In denying the defendant's motion as untimely, the trial court incorrectly treated the defendant's motion as a motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. We, therefore, reverse for proper consideration of the defendant's motion and, if denied, the issuance of a new order with the appropriate attachments which conclusively refute the claimed entitlement to relief. See Fla. R. App. P. 9.141(b)(2)(D)(requiring reversal by this court unless the record shows conclusively that the defendant is entitled to no relief).

Reversed and remanded.