

FLA.R.CRIM.P. RULE 3.800(A) MOTION FOR CORRECTION
OF ILLEGAL SENTENCE

STATE COURTS OPINIONS BELOW

("ALL REMEDIES EXHAUSTED")

1. Circuit Court of Florida — (Appendix "A")
2. Appellate Court of Florida — (Appendix "B")
3. Florida Supreme Court — (Appendix "C")

APPENDIX "A"

LOWER COURT'S ORDER DENYING PETERSON'S
MOTION FOR CORRECTION OF ILLEGAL
SENTENCE....

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

CASE NO.: 2018-CF-2210
2018-CF-2212
2018-CF-2237
DIVISION: CR-I

STATE OF FLORIDA

v.

MARCUS ANTONE PETERSON,
Defendant.

**ORDER DENYING DEFENDANT'S MOTION FOR CORRECTION OF ILLEGAL
SENTENCE**

This matter came before the Court on Defendant's Motion for Correction of Illegal Sentence, filed on November 8, 2022. The motion is filed pursuant to Florida Rule of Criminal Procedure 3.800(a).

Defendant contends his sentence is illegal because the court lacked jurisdiction over himself and his case because he was never arraigned. Defendant's argument lacks merit. Here, the docket indicates Defendant was present in jail on the date of his arraignment: April 4, 2018; it further indicates Defendant pled not guilty. However, even if Defendant had never been arraigned, his failure to raise the issue prior to entering his guilty plea waived any such claim. See Fla. R. Crim. P. 3.160(b); McArthur v. State, "A plea of guilty waives all defects and non-jurisdictional irregularities in the arraignment procedure."). Defendant entered into a negotiated plea on May 31, 2018, thereby waiving any claims of a defective arraignment. *is different from no arraignment*

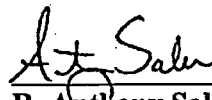
Defendant further challenges the constitutionality of Florida Rules of Criminal Procedure 3.160 and 3.170. Rule 3.800(a) motions are not the proper vehicle for challenging the constitutionality of statutes. See Pleas v. State, 41 So. 3d 980, 981 (Fla. 1st DCA 2010) ("Florida

Rule of Criminal Procedure 3.800(a) cannot be used as a vehicle for challenging the constitutionality of a sentencing statute.”); Thomas v. State, 778 So. 2d 429, 430 (Fla. 5th DCA 2001) (holding that whether a sentencing statute is constitutional cannot be raised for the first time in a Rule 3.800(a) motion).

Therefore, it is **ORDERED**:

Defendant’s Motion for Correction of Illegal Sentence, filed on November 8, 2022, is **DENIED**.

DONE AND ORDERED in Jacksonville, Duval County, Florida, 14th day of November, 2022.



R. Anthony Salem
Circuit Judge


Copies to:

Office of the State Attorney
SAO4DuvalAppealOrder@coj.net

Marcus Peterson
DOC #: 106109
DeSoto Annex (Male)
13617 S.E. Highway 70
Arcadia, Florida 34266-7800

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been furnished to all legal counsel for both parties via address listed above and/or Defendant by U.S. Mail this 17TH day of NOVEMBER, 2022.



Deputy Clerk

Case No.: 2018-CF-2210
2018-CF-2212
2018-CF-2237

APPENDIX "B"

THE "PER CURIAM AFFIRMED" OPINION
OF THE APPELLATE COURT...

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

MARCUS ANTONE PETERSON,

Appellant,

v.

Case No. 5D23-633
LT Case Nos. 2018-CF-2237
2018-CF-2212
2018-CF-2210

STATE OF FLORIDA,

Appellee.

Decision filed May 2, 2023

3.800 Appeal from the Circuit Court
for Duval County,
R. Anthony Salem, Judge.

Marcus Antone Peterson, Arcadia, pro se.

No Appearance for Appellee.

PER CURIAM.

AFFIRMED.

EISNAUGLE, KILBANE and MACIVER, JJ., concur.

APPENDIX "C"

THE ORDER OF FLORIDA'S SUPREME
COURT DISMISSING REVIEW CITING
[LACK OF JURISDICTION'].... (Wow!)

Supreme Court of Florida

WEDNESDAY, MAY 24, 2023

Marcus Antone Peterson,
Petitioner(s)

v.

State of Florida,
Respondent(s)

SC2023-074

Lower Tribunal No(s)
5D23-63

162018CF002210AXXXM
162018CF002212AXXXM
162018CF002237AXXXM

This case is hereby dismissed. This Court lacks jurisdiction to review an unelaborated decision from a district court of appeal that is issued without opinion or explanation or that merely cites to an authority that is not a case pending review in, or reversed or quashed by, this Court. See *Wheeler v. State*, 296 So. 3d 895 (Fla. 2020); *Wells v. State*, 132 So. 3d 1110 (Fla. 2014); *Jackson v. State*, 926 So. 2d 1262 (Fla. 2006); *Gandy v. State*, 846 So. 2d 1141 (Fla. 2003); *Stallworth v. Moore*, 827 So. 2d 974 (Fla. 2002); *Harrison v. Hyster Co.*, 515 So. 2d 1279 (Fla. 1987); *Dodi Publ'g Co. v. Editor Am. S.A.*, 385 So. 2d 1369 (Fla. 1980); *Jenkins v. State*, 385 So. 2d 1356 (Fla. 1980).

No motion for rehearing or reinstatement will be entertained by the Court.

A True Copy
Test:

SC2023-0749 5/24/2023

John A. Tomasino

Clerk, Supreme Court
SC2023-0749 5/24/2023

