

DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

JIMMY LEE WHEELER,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

No. 2D23-1546

September 13, 2023

Appeal pursuant to Fla. R. App. P. 9.141(b)(2) from the Circuit Court for Manatee County; Lon Arend, Judge.

PER CURIAM.

Affirmed.

VILLANTI, ROTHSTEIN-YOUAKIM, and LABRIT, JJ., Concur.

Opinion subject to revision prior to official publication.

PS. Please see Correction of "escape conviction" on Exhibit D. (3); Made Known by General Counsel Lance Eric Nuff of record, For D.O.C., which has been vacated since Dec. 14, 1988. And the rest are expired.

Exhibit C. (2)

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

August 08, 2023

CASE NO.: 6D23-2090
L.T. No.: CF06-00706,
CF06-003940-XX

JIMMY WHEELER

v. STATE OF FLORIDA

Appellant / Petitioner(s),

Appellee / Respondent(s).

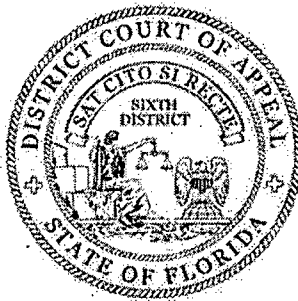
BY ORDER OF THE COURT:

This appeal is dismissed as untimely filed and the petition for writ of habeas corpus filed with this appeal is denied pursuant to *Johnson v. State*. 676 So.2d 1017, 1017 (Fla. 5th DCA 1996).

I hereby certify that the foregoing is a true copy of the original court order.



Stacey Pectol
Clerk



PANEL: STARGEL, WHITE, and MIZE, JJ.

cc:

ATTORNEY GENERAL, TAMPA, A.G.
JIMMY WHEELER

CERESE CRAWFORD TAYLOR, A.A.G.
STACY BUTTERFIELD, CLERK

Exhibit C.(3.)

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

August 28, 2023

CASE NO.: 6D23-2090
L.T. No.: CF06-00706,
CF06-003940-XX

JIMMY WHEELER

v.

STATE OF FLORIDA


Appellant / Petitioner(s),

Appellee / Respondent(s).

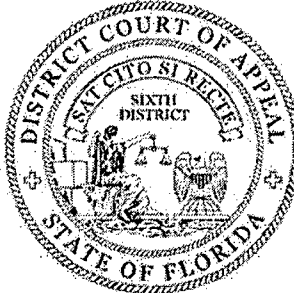
BY ORDER OF THE COURT:

Appellant's motion for rehearing and motion for rehearing en banc are denied.

I hereby certify that the foregoing is a true copy of the original court order.



Stacey Pectol
Clerk



PANEL: STARGEL, WHITE, and MIZE, JJ.

cc:

ATTORNEY GENERAL, TAMPA, A.G.
JIMMY WHEELER

CERESE CRAWFORD TAYLOR, A.A.G.
STACY BUTTERFIELD, CLERK

Supreme Court of Florida

FRIDAY, SEPTEMBER 22, 2023

Jimmy Wheeler,

Petitioner(s)

v.

State of Florida,

Respondent(s)

SC2023-1325

Lower Tribunal No(s):

6D2023-2090;

532006CF00070601XXXX,

532006CF00394001XXXX

Petitioner's Notice to Invoke Discretionary Jurisdiction, seeking review of the order or opinion issued by the Sixth District Court of Appeal on August 28, 2023, 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. Editorial 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.

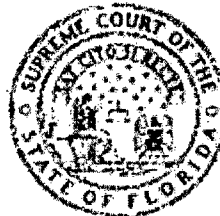
A True Copy

Test:

SC2023-1325 9/22/2023

John A. Tomasino

Clerk, Supreme Court



CASE NO.: SC2023-1325

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TD

Served:

6DCA CLERK

POLK CLERK

MARILYN FRANCES MUIR

MR. JIMMY LEE WHEELER

HON. LORI A. WINSTEAD

IN THE CIRCUIT COURT FOR THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

v.

CASE NOS.: 06CF-000706-XX
06CF-003940-XX

JIMMY L. WHEELER,

Defendant.

> ORDER DENYING DEFENDANT'S MOTION TO CORRECT ILLEGAL
CONVICTIONS; AND, FINES ASSESSMENT OF FINANCIAL OBLIGATIONS, THAT
RESULTING [sic] IN CRIMINAL CONVICTION, ETC.

AND

> ORDER DENYING PETITIONER PETITIONS THE COURT FOR RELIEF, BY WRIT
OF HABEAS CORPUS; TO CORRECT MANIFEST INJUSTICE EXCEPTION, FROM
WRONGFUL CONVICTIONS, ETC.

AND

> ORDER DENYING WRIT OF WRONGFUL SUPERVISORY CONTROL, UNDER
EXCESSIVE PUNISHMENT; RESULTING IN 'CIVIL' AND CRIMINAL
CONVICTIONS

AND

> ORDER STRIKING MOTION TO COMPEL RULING

THIS MATTER is before the Court upon Defendant's pro se "Motion To Correct Illegal Convictions; And, Fines Assessment Of Financial Obligations, That Resulting [sic] In Criminal Conviction, etc.," ("motion") filed on May 11, 2022, "Petitioner Petitions The Court For Relief, By Writ Of Habeas Corpus; To Correct Manifest Injustice Exception, From Wrongful Convictions, etc.," ("petition") filed on June 9, 2022, "Motion To Compel Ruling," filed on August 26, 2022, and "Writ of Wrongful Supervisory Control, Under Excessive Punishment; Resulting in 'Civil' and Criminal Convictions," ("amended petition") filed on September 1, 2022. After reviewing Defendant's allegations, the court file, the record, and the applicable law, the Court finds as follows:

In case 06-CF-000760, on October 20, 2006, Defendant pleaded guilty to driving while license suspended/revoked (habitual traffic offender) (count one). See memo of sentence, attached. The Court sentenced him to 24.5 months in prison on count one. See judgement and sentence, attached. The Second District Court of Appeal affirmed the judgment and sentence,

and the mandate issued January 25, 2008. *See Wheeler v. State*, 972 So. 2d 187 (Fla. 2d DCA 2008).

In case 06-CF-003940, on October 20, 2006, Defendant pleaded guilty to driving while license suspended/revoked (habitual traffic offender) (count one). *See* memo of sentence, attached. The Court sentenced him to 24.5 months in prison on count one, to run concurrently with the sentence imposed in 06-CF-000706. *See* judgment and sentence, attached. The Second District Court of Appeal affirmed the judgment and sentence, and the mandate issued January 25, 2008. *See Wheeler v. State*, 972 So. 2d 187 (Fla. 2d DCA 2008).

Defendant's motion was filed under a litany of criminal procedure rules, none of which are applicable, and is rambling and disjointed. Defendant does mention rule 3.800(a) under the section titled, "Statement of Claim." Further, in his motion, it appears Defendant alleges the trial judge furloughed him to pay the fines associated with his driver's license. Defendant contends he satisfied the requisite financial obligations. Defendant maintains when he returned to Court he was then sentenced to prison in the above-styled cases. Defendant asserts he completed all that the trial judge had ordered, and his sentences constitute double jeopardy. Defendant seeks correction of his driving record or "restoration of financial obligation."

Accordingly, based on the allegations and the relief sought, the Court will treat Defendant's motion as a motion for correction of illegal sentence, properly invoking Florida Rule of Criminal Procedure 3.800(a). Additionally, the allegations in Defendant's petition and amended petition seem to mirror those raised in Defendant's motion. Consequently, the Court will also construe Defendant's petition and amended petition as motions for correction of illegal sentence, properly invoking Florida Rule of Criminal Procedure 3.800(a).

The Court finds Defendant's claims in his motion, petition and amended petition are not cognizable under rule 3.800(a) because Defendant is attacking the convictions and not the sentences. *See, e.g., Coughlin v. State*, 932 So. 2d 1224, 1226 (Fla. 2d DCA 2006) (noting "a traditional double jeopardy challenge attacks both the conviction and, by default the sentence, while rule 3.800(a) is limited to claims that a sentence itself is illegal, without regard to the underlying conviction."). Additionally, the Court notes Defendant has completed his sentences on the above-styled cases, rendering the issue moot. *See Raines v. State*, 14 So. 3d 244, 246 (Fla. 2d DCA 2009) (noting "[a]t least as a general rule, a sentence cannot be challenged after it has been fully served and has expired because any sentencing issue is moot thereafter.") (citation omitted); *Sherwood v. State*, 745 So. 2d 378, 378 (Fla. 4th DCA 1999) (finding "[w]hile rule

3.800(a) permits an illegal sentence to be corrected at any time, we conclude that the rule means that the sentence can be corrected at any time while the sentence is being served.... A double jeopardy violation cannot be corrected once a sentence has been completed.") (citations omitted). As such, no relief is warranted on Defendant's allegations in his motion, petition and amended petition.

Lastly, as to Defendant's motion to compel ruling, it appears the motion does not relate to any pending motions in the above-styled cases. Defendant contends a hearing was held on May 13, 2022, for a misdemeanor case, and he is still waiting for a ruling. As such, the motion must be stricken.

Based on the foregoing, it is **ORDERED AND ADJUDGED** that:

1. Defendant's "Motion To Correct Illegal Convictions: And, Fines Assessment Of Financial Obligations, That Resulting [sic] In Criminal Conviction, etc." is **DENIED**.
2. Defendant's "Petitioner Petitions The Court For Relief, By Writ Of Habeas Corpus: To Correct Manifest Injustice Exception, From Wrongful Convictions, etc." is **DENIED**.
3. Defendant's "Writ of Wrongful Supervisory Control, Under Excessive Punishment: Resulting in 'Civil' and Criminal Convictions" is **DENIED**.
4. Defendant's "Motion To Compel Ruling" is **STRICKEN**.

Defendant has thirty (30) days in which to appeal this Order to the Second District Court of Appeal.

DONE AND ORDERED in Bartow, Polk County, Florida, this 3rd day of October, 2022.


MICHAEL P. MCDANIEL, Circuit Judge

cc:

- Jimmy L. Wheeler, DC#046120, Hamilton Ct, 10650 SW 46th Street, Jasper, FL 32052
- Victoria Avalon, Esq., A.S.A.

MPM/meo

MEMO OF SENTENCE /
ORDER OF THE COURT

DIV: F2 IN THE CIRCUIT / COUNTY COURT POLK COUNTY, FLORIDA / CRIMINAL DIVISION BI #: 0615322
DATE: 10/20/06 BONDSMAN: DEF. LOC: RELEASE ON RECOGNIZANCE
CASE NO.: CE06-000706-XX STATE VS.: WHEELER JIMMY LEE
SEQ# CT.# FINE / CST BD SRTY / CASH
C 001 1 DRIV W/LICENSE SUSP/REVOKED (H.T.O.)

NO MORE CHARGES FOR THIS CASE ONLY

S.A. Colon JUDGE NEIL A. RODDENBERY COURT REPORTER lcr

DEFENDANT

PLEA

ADJUDICATION

☐ Pres w/o Any ☐ Guilty ☐ Nolo Cont ☒ Guilty ☐ Withheld
☐ Pres w/ Any ☐ Not Guilty ☐ Withheld Pending Disp
☐ Atty Paulman Paul
☐ FTA ☐ SRTY/CSH BD \$ ☐ FORF ☐ WAIV JT& COUNS ☐ WAIV PSI
☐ Capi Ord. ☐ Bond Set \$ ☐ C/S EA CT. / TOTAL OR BLANKET W/
☐ Capi/Warr W/D ☐ PSCO Notified ☐ Bond Forfeiture Ordered Set Aside

PD APPT

YOUR NEXT COURT DATE IS:

☐ Arraignment @ ☐ Mandatory Docketing @
☐ Status Conf. @ ☐ Jury Trial / Selection @
☐ Pretrial Conf. @ ☐ Plea / Disposition @
☐ Viol. Prob. @ ☐ Other @
☐ INFO FILED IN OPEN COURT ☐ NOTIFY DEFT / ALL ☐ DEFT REP. P.S.I. / PDR ☐ WAIV SP TRIAL
☐ JURY TRIAL STARTS ☐ JURY VERDICT

Deft placed on ☐ PROBATION / COMM CONTROL FOR A PERIOD OF

☒ COST ORDER ATTACHED FOR COST/FINES, DUE WITHIN 10 yrs. after release FSP ☐ PL SUSP ORD FOR 10-30-06 DAYS/YRS ON COUNT
☐ YR MIN MAN SENTENCE IMPOSED; ☐ SENT AS SEX OFFENDER/PREDATOR
☐ PROB / CCPR: ☐ RESTORED ☐ MODIFIED ☐ REVOKED ☐ Dent Cont
☐ JAIL ☐ REST ☐ ALCOHOL / DRUG EVAL ☐ DWI/DDS SCHOOL ☒ Probation Terminated Satisfactorily/Unsatisfactorily
☐ DOM VIOL PROG ☐ STANDARD DRUG COND ☐ COMMITMENT CC: ☒ DEF ☒ PA/PD ☐ SAO ☒ JAIL ☒ PROB
☐ ACS HOURS within

It is the judgment of the court, and the sentence of the law that you, the above named defendant be confined in the

24.5 ☐ Polk County Jail ☒ State Prison ☐ Youthful Offender for a term of: all
DYS/MOS/YRS CT# 1 TO RUN CONCUR/CONSEC WITH 10-30-06
DYS/MOS/YRS CT# TO RUN CONCUR/CONSEC WITH SB, COST, Fin, SPO
DYS/MOS/YRS CT# TO RUN CONCUR/CONSEC WITH
DYS/MOS/YRS CT# TO RUN CONCUR/CONSEC WITH

☒ TO BE GIVEN CREDIT FOR all TIME SERVED. ☐ DEFT TO BE RELEASED THIS CASE ONLY
☐ WEEKEND WORK RELEASE TO BEGIN AT 7:45 AM ☐ WEWR MEMO SIGNED

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED THE SEAL OF THE CIRCUIT / COUNTY COURT THIS DATE.

RICHARD M. WEISS

DATE 10-20-06 (SEAL) BY [Signature] D.C.

ORIGINAL (COURT FILE) CIRCUIT JUDGE

3

**Additional material
from this filing is
available in the
Clerk's Office.**