

No.

IN THE SUPREME COURT OF THE UNITED STATES

MICHAEL WEAVER,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

On Petition for a Writ of Certiorari
to the Third District Court of Appeal, State of Florida

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the Sixth Amendment right to counsel is jurisdictional, such that, where a trial court errs by erroneously depriving a defendant of his right to counsel, the error may be raised and corrected at any time?

PARTIES TO THE PROCEEDING

Parties to the proceeding include Michael Weaver (Appellant/Petitioner), and Pam Bondi, Attorney General, State of Florida (Appellee/Respondent).

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PETITION FOR WRIT OF CERTIORARI

OPINION BELOW

The opinion of the Third District Court of Appeal, State of Florida, is attached as Appendix A. The order denying Mr. Weaver's Fla. R. Crim. P. 3.800(a) Motion to Correct Illegal Sentence entered by the Eleventh Judicial Circuit in and for Miami-Dade County, State of Florida, is attached as Appendix B.

JURISDICTION

The Third District Court of Appeal's Opinion was entered on November 1, 2017. The Third District Court of Appeal's Per Curiam Affirmance precluded review of Mr. Weaver's case by the Florida Supreme Court, and, as such, the Third District's Opinion is the decision of the state court of last resort in Mr. Weaver's case, and the time for filing the instant Petition will not run out until January 30, 2018. U.S. Sup. Ct. R. 13. This Court's jurisdiction is invoked under Title 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

U.S. Const. amend. VI.

STATEMENT OF THE CASE

The Petitioner, Michael Weaver, was charged by Information in the Circuit Court of the Eleventh Judicial Circuit, Miami-Dade County, State of Florida, with one count of Second Degree Murder, and one count of Robbery with a Firearm, in violation of § 782.04(2), Fla. Stat. and § 812.13(2)(a), Fla. Stat.

Mr. Weaver ultimately pled guilty to both charges, and a sentencing hearing was set, during which the following exchange took place:

THE DEFENDANT: At that time I can say this plea was not entered voluntarily. It was after I was told by my lawyer that I can enter a plea and have it later withdrawn. And I would refuse to be represented by Mr. Senobi in any further proceedings.

THE COURT: You have an absolute right to do that, but we have to have a little hearing. It's an opportunity for you to determine and tell me whether you want to be represented by him in any further. And if you choose not to be that is okay. And after we talk on the record a little bit about your understanding of things if you want to represent yourself at this hearing you have an absolute right in this country to do such a thing. I cannot and will not participate if that is what you want, but this proceeding will go ahead and this sentencing procedure will go ahead whether he is here or not. But if you want to represent yourself for the purpose of the hearing and discharge Mr. Senobi we'll agree to do that if that is what you want to do, go ahead and let Mr. Senobi know what you want to do. And whatever motions you have after that is fine. But we are not going to postpone this one more time, not one more minute, not one more second. So you decide what you want to do. You want to keep him for the sentencing procedure and put witnesses before you or you want to go at it alone.

THE DEFENDANT: You know I do not wish to represent myself because I don't know anything about the laws but I do not wish to be represented by Mr. Senobi anymore because I know the man lied to me and I thought this. So I cannot be

represented by somebody that I know that lied to me.

THE COURT: Discharge him and then you can go at it alone?

THE DEFENDANT: Go ahead. You can do whatever you want to do.

THE COURT: It's not what I want to do, it's what the law tells me I can do. I can't make you keep Mr. Senovi for this proceeding. If you don't want him to be your lawyer no problem we'll discharge him. If I believe that you at least have an understanding of what that means to discharge your lawyer and go forward on your own. You don't have to be skilled on the law. The case law tells us if a person in this country wants to represent themselves and they've have gone to law school not one day in their life. As long as I understand what it means to discharge their lawyer and go alone in similar terms. And once we get through with that discussion if you want to go at it alone no problem knock yourself out. If you want to proceed and present your sentencing motion or your case and then make some motions afterwards, that is fine. I can only tell you what I have to do not what you have to do. I can't force you to use Mr. Senovi. We are not going to delay this procedure. You are going to go alone at it. Those are the choices so you tell me how you want to play it?

THE DEFENDANT: I guess I am on my own.

THE COURT: I need to ask you some questions by way of what we call a feretta hearing. And the second opportunity presents itself for me to inquire on the record whether or not you want to formally call it discharge Mr. Senovi who was your lawyer up until this moment. Yes or no?

THE DEFENDANT: Yes.

THE COURT: Do you understand that by discharging Mr. Senobi and allowing the Court to discharge him from further representation from you in this case that he will not be participating in the presentation of any witnesses. That is not to say that the witnesses will not be heard it's just that you wont be presenting them and asking them questions that he might or might not want to ask during the course of the testimony?

THE DEFENDANT: Yes, sir.

THE COURT: And do you understand that even if he doesn't have questions because he is not going to necessarily participate in this procedure then you have a right to ask questions of these witnesses at the sentencing proceeding?

THE DEFENDANT: Yes.

THE COURT: And do you also understand that if you go forward with this proceeding that the discharging of Mr. Senovi is not going to discharge the sentencing matter. Witnesses that have been subpoenaed to come here voluntarily on your behalf will have an ample opportunity to make whatever statements on your behalf whether they are professional named witnesses or friends, whether he is your lawyer. You are still going to have an opportunity to have those people heard.

THE DEFENDANT: Yes.

THE COURT: Has anyone threatened you or harassed you in making you in fear of your lawyer, anybody threaten you to get rid of Mr. Senovi?

THE DEFENDANT: No, sir.

THE COURT: Are you discharging him freely and voluntarily because that is what you want to do?

THE DEFENDANT: Yes, sir.

THE COURT: Do you have any training in the law?

THE DEFENDANT: No, sir.

THE COURT: Have you had an opportunity while a defendant in this case to go over with your lawyer through the proceedings that would happen at the sentencing phase with the people on your behalf who would have an opportunity to speak and say what they have to say? Have you at least gone over that with him?

THE DEFENDANT: No, sir.

THE COURT: You understand, as I said before you will have an opportunity to since you will be representing yourself to call the names of any witnesses. And whether you want to ask them questions or not that is your business. But you can present those people and have them make whatever statements in front of the Court. Do you understand you can do that?

THE DEFENDANT: Yes, sir.

THE COURT: If you want to do it this way it's up to you. You also have the opportunity to have Mr. Senovi in the courtroom to answer any questions about the law or anything that might be important to you in presenting these witnesses. If you want that, that is okay.

THE DEFENDANT: No, sir.

THE COURT: You don't want that?

THE DEFENDANT: No, sir.

THE COURT: Is there anything about that that you don't understand as far as the fact that if you discharge your lawyer you are on your own? I can't make you –

THE DEFENDANT: No, sir.

THE COURT: How far did you go in school?

THE DEFENDANT: High School.

THE COURT: Did you graduate from high school?

THE DEFENDANT: Yes, sir.

THE COURT: Do you have any mental problems or psychological problems that would prevent you from under what you are doing, firing your lawyer and getting at it on your own?

THE DEFENDANT: Not at the moment.

THE COURT: And going at it alone are you understanding the influence of any alcohol or drugs?

THE DEFENDANT: No, sir.

THE COURT: Any questions?

MS. DANNELY: Not by way of questions. As far as I hope Mr. Weaver will be, there will not be – the sentencing procedure is not going to be a proceedings to dump on his lawyer.

THE COURT: Right.

I would hope that he is not planning to call anyone any family member or potential witness that would come to be on his previous motion to withdraw from his plea.

THE DEFENDANT: I am not going to call anyone. I am going to let the State say what they want to say and then you can make your decision.

THE COURT: That is up to you. I ask whether there is anyone else that wants to make a statement about this case because as the members of the public and members to this community in this country in this State people have a right to be heard whether we think it's a good idea or not. Anybody that wants to make a statement whether you call them as witness or not that feels they want to exercise their right of speech if they want to come and speak on your behalf, but I understand if you don't want to want to call anyone that is something. Even if you had your lawyer with you or not. Somebody is forcing you to do that?

The Court finds that?

The defendant has made a voluntary and intelligent decision. That the defendant possesses the qualifications necessary to make that decision and that he understands that his lawyer will not be participating in the sentencing procedure in the case. And based upon his education and understanding in his answering to my questions whether there are any mental impairments to his proceedings on his own and he is not under the influence of alcohol or drugs we would make the decision

so that the court feels he is making a freely and voluntary decision to discharge his lawyer, Mr. Senobi, and go forward with the sentencing procedure on his own.

So Mr. Senovi at this point we are going to formally based upon the defendant's understanding and request discharge you from the services in the case.

MR. SENOB: I want to point out that Doctor Izenstein (phonetic) and Mary Haber were witnesses.

THE COURT: Mr. Weaver these two doctors were here to testify on your behalf about certain matters that may be point in your sentencing procedure. Your lawyer would have called them. Do you want to call them?

THE DEFENDANT: No.

THE COURT: Thank you folks.

(December 13, 1999, Sentencing Transcripts, 13-20).

On October 31, 2016, Mr. Weaver filed a Fla. R. Crim. P. 3.800(a) Motion to Correct Illegal Sentence, arguing that the record does not demonstrate that he knowingly, intelligently, and voluntarily waived his right to counsel during sentencing, and, as such, the sentences imposed upon him are illegal, as they were imposed in the absence of counsel in violation of his Sixth Amendment right to counsel. The trial court denied relief, finding that the argument was untimely raised and successive in nature. The appellate court affirmed without a written opinion.

This Petition follows.

REASONS FOR GRANTING THE PETITION

I. THIS COURT SHOULD GRANT REVIEW TO ESTABLISH THAT UNDER THE SIXTH AMENDMENT TO THE UNITED STATES CONSTITUTION, NO COURT HAS JURISDICTION TO IMPOSE A SENTENCE OF IMPRISONMENT UPON A DEFENDANT IN THE ABSENCE OF COUNSEL OR A VALID WAIVER THEREOF, AND THAT ANY SUCH SENTENCE IMPOSED IS SUBJECT TO VACATUR AT ANYTIME.

Under this Court's precedent, the Sixth Amendment stands as a jurisdictional bar to the imposition of a sentence of incarceration upon a defendant who is not represented by counsel, and who has not made a valid waiver thereof. Accordingly, as this Court has found that the Sixth Amendment right to counsel is jurisdictional, this Court should grant the instant petition to establish that, because the right is jurisdictional, where a trial court errs by erroneously depriving a defendant of his right to counsel, the error may be raised and corrected at any time.

1. The Sixth Amendment right to counsel is jurisdictional.

The Sixth Amendment acts as a jurisdictional bar precluding the imposition of a sentence of incarceration upon an uncounseled defendant in the absence of a valid waiver of the right to counsel. More specifically, in *Johnson v. Zerbst*, 304 U.S. 458, 58 S.Ct. 1019, 82 L.Ed. 1461 (1938), this Court explained:

Since the Sixth Amendment constitutionally entitles one charged with crime to the assistance of counsel, compliance with this constitutional mandate is an essential jurisdictional prerequisite to a federal court's authority to deprive an accused of his life or liberty. When this right is properly waived, the assistance of counsel is no longer a necessary element of the court's jurisdiction to proceed to conviction and sentence. *If the accused, however, is not represented by counsel and has not competently and intelligently waived his constitutional right, the Sixth Amendment stands as a jurisdictional bar to a valid conviction and sentence depriving*

him of his life or his liberty. A court's jurisdiction at the hearing of trial may be lost 'in the course of the proceedings' due to failure to complete the court-as the Sixth Amendment requires-by providing counsel for an accused who is unable to obtain counsel, who has not intelligently waived this constitutional guaranty, and whose life or liberty is at stake. If this requirement of the Sixth Amendment is not complied with, the court no longer has jurisdiction to proceed.

Johnson, 304 U.S. at 467-68, 58 S.Ct. at 1024-25 (emphasis added).

Additionally, in *Argersinger v. Hamlin*, 407 U.S. 25, 92 S.Ct. 2006, 32 L.Ed.2d 530 (1972), this Court held "that absent a knowing and intelligent waiver, no person may be imprisoned for any offense, whether classified as petty, misdemeanor, or felony, unless he was represented by counsel at his trial." *Argersinger*, 407 U.S. at 37, 92 S. Ct. at 2012 (footnotes omitted). In doing so, this Court approved the holding in *Stevenson v. Holzman*, 254 Or. 94, 102, 458 P.2d 414, 418 that:

no person may be deprived of his liberty who has been denied the assistance of counsel as guaranteed by the Sixth Amendment. This holding is applicable to all criminal prosecutions, including prosecutions for violations of municipal ordinances. *The denial of the assistance of counsel will preclude the imposition of a jail sentence.*

Argersinger, 407 U.S. at 37-38, 92 S.Ct. at 2013 (footnotes omitted)(emphasis added).

The foregoing precedent of this Court makes clear that no sentence may be imposed upon a criminal defendant who has not competently and intelligently waived his constitutional right to counsel. Accordingly, this Court should accept jurisdiction over Mr. Weaver's case to establish that no court has jurisdiction to impose a sentence of imprisonment upon a defendant in the absence of counsel, or a valid waiver thereof, and that any such sentence that is imposed is subject to vacatur at any time. More

specifically, this Court should find that such a sentence is subject to vacatur at any time, as, if such a sanction is not subject to collateral attack at any time, the sixth amendment's guarantee of the right to counsel becomes a hollow one.

Even more specifically, if a defendant is deprived of his right to counsel, he cannot be expected to know and comply with whatever measures a given jurisdiction has put in place for correcting the error, or be barred from relief entirely, as the result of creating a stringent procedure for correcting the error is that the defendant is then required to act as his own attorney, and demonstrate competency in the legal field, despite the fact, under the constitution, the assumption is he is not competent to do so, ergo, the very reason for the right to counsel in the first place.

For example, based upon the state court's finding, Mr. Weaver was required to recognize he did not validly waive his right to counsel, recognize that he had only 2 years to raise the issue, and understand that the issue must be raised through the filing of a Fla. R. Crim. P. 3.850 Motion for Post-Conviction Relief, despite the constitution's assumption that Mr. Weaver was not competent to recognize or understand any of the foregoing. The practical effect of placing these burdens upon Mr. Weaver was to perpetuate the prejudice arising from the original error, *i.e.*, the deprivation of counsel was both the error and the cause for the failure to correct the error at an earlier stage.

This Court has found that "the right to counsel does not depend upon a request by the defendant." *Brewer v. Williams*, 430 U.S. 387, 404, 97 S. Ct. 1232, 1242, 51 L. Ed. 2d 424 (1977) (citations omitted). If the right to counsel does not depend upon a request by the defendant, then, logically, the correction of the erroneous deprivation of

that right, likewise, cannot depend upon a request for correction of the error being made in a specified manner by the defendant. Otherwise, the right to counsel, would, in fact, depend upon a request being made by the defendant. Simply put, under the Sixth Amendment, a criminal defendant enjoys the right to counsel, and this Court should find that the complete deprivation of that right is correctable at any time, to insure that all defendants enjoy the right, not simply those with the legal acumen to secure it.

Consequently, this Court should accept jurisdiction and find that no court has jurisdiction to impose a sentence of imprisonment upon a defendant in the absence of counsel, or a valid waiver thereof, and that any such sentence that is imposed is subject to vacatur at any time, to prevent the Sixth Amendment's guarantee of counsel from becoming a hollow one. *See, Johnson*, 304 U.S. at 467-68, 58 S.Ct. at 1024-25; *Argersinger*, 407 U.S. at 37-38, 92 S.Ct. at 2013; *Brewer*, 430 U.S. at 404, 97 S. Ct. 1242.

2. Mr. Weaver did not validly waive his right to counsel.

In the State of Florida, a criminal defendant is not deemed to have validly waived his right to counsel unless the dictates of *Faretta v. California*, 422 U.S. 806, 95 S. Ct. 2525, 45 L. Ed. 2d 562 (1975) are met, and, specifically, under Florida law:

A *Faretta* inquiry is inadequate when the trial court does not advise the defendant of the dangers and disadvantages of self-representation, the advantages of representation by counsel, or inquire into the defendant's age, education, ability to read and write, or any mental or physical conditions. *Id.* Rule 3.111(d)(2) provides that a defendant shall not be considered to have waived the assistance of counsel until the entire process of offering counsel and conducting a thorough *Faretta* inquiry is completed.

Davis v. State, 10 So.3d 176, 178 (Fla. 5th DCA 2009); *See also*, Fla. R. Crim. P. 3.111(d).

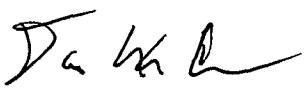
Here, under Florida law, Mr. Weaver did not validly waive his right to counsel, as the trial court: (1) failed to inquire into Mr. Weaver's age and ability to read and write; (2) failed to advise Mr. Weaver that a lawyer could assist him in calling witnesses and presenting evidence, advise him regarding whether he should testify, is familiar with the rules of evidence, and could preserve errors for appeal; and (3) failed to warn Mr. Weaver he would not receive special treatment and would be limited by the resources available to him while in custody. *See, Id.* In fact, the state has never disputed the fact Mr. Weaver did not validly waive his right to counsel. Instead, the state has simply argued the issue is procedurally barred. However, as explained *supra*, the trial court's failure to obtain a valid waiver of counsel necessarily acts as jurisdictional bar to the circuit court's imposition of a sentence of incarceration upon Mr. Weaver, which, regardless of any procedural impediments that may otherwise exist, may be raised and corrected at any time. *See, Johnson*, 304 U.S. at 467-68, 58 S.Ct. at 1024-25; *Argersinger*, 407 U.S. at 37-38, 92 S.Ct. at 2013; *Brewer*, 430 U.S. at 404, 97 S. Ct. 1at 1242.

Consequently, this Court should reverse the Third District Court of Appeal's affirmance of Mr. Weaver's collateral appeal, vacate his sentences of life imprisonment, and direct the circuit court in and for the Eleventh Judicial Circuit, Miami-Dade County, State of Florida, to hold a new sentencing hearing, where Mr. Weaver is present and represented by counsel. *See, Id.*

CONCLUSION

For the reasons stated above, this Court should grant Mr. Weaver's Petition for Writ of Certiorari, establish that, because the Sixth Amendment right to counsel is jurisdictional, where a trial court errs by erroneously depriving a defendant of his right to counsel, the error may be raised and corrected at any time, reverse the Third District Court of Appeal's affirmance of his appeal, vacate his sentences of life imprisonment, and direct the circuit court in and for the Eleventh Judicial Circuit, Miami-Dade County, State of Florida, to hold a new sentencing hearing, where Mr. Weaver is present and represented by counsel.

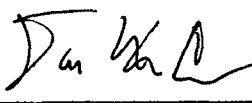
Respectfully Submitted,

By: 

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Petition for Writ of Certiorari was furnished by United States Mail to the Office of the Attorney General, Criminal Appeals Division, 1 SE 3rd Ave., 9th Floor, Miami, FL 33131, on this the 19th day of January, 2018.

By: 

Dane K. Chase, Esq.

Florida Bar Number: 0076448

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Opinion of the Third District Court of Appeal, State of Florida..... Appendix A

Order of the Eleventh Judicial Circuit for Miami-Dade County,
State of Florida, Denying Mr. Weaver's Motion to Correct
Illegal Sentence Appendix B

APPENDIX A

Third District Court of Appeal

State of Florida

Opinion filed November 01, 2017.

Not final until disposition of timely filed motion for rehearing.

No. 3D17-1148

Lower Tribunal No. 94-37277

Michael Weaver,
Appellant,

vs.

The State of Florida,
Appellee.

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

Chase Law Florida, P.A., and Dane K. Chase (St. Petersburg), for appellant.

Pamela Jo Bondi, Attorney General, and Michael W. Mervine, Assistant Attorney General, for appellee.

Before ROTHENBERG, C.J., and FERNANDEZ and LUCK, JJ.

PER CURIAM.

Affirmed.

APPENDIX B

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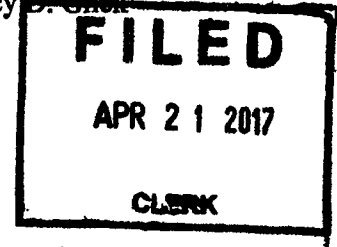
IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

STATE OF FLORIDA
Plaintiff,

Case No. F94-37277
Judge Stacy D. Glick

v.

MICHAEL WEAVER,
Defendant.



ORDER DENYING DEFENDANT'S MOTION TO CORRECT ILLEGAL SENTENCE
(filed September 25, 2015)

THIS CAUSE having come on to be heard upon Defendant's Motion to Correct Illegal Sentence, and this Court having reviewed the motion, the State's response and attachments thereto, the Court finds as follows:

Procedural History

1. The Defendant was sentenced to two Life sentences after taking a plea to a reduced charge of Second Degree Murder and Armed Robbery and Use of a Firearm in the Commission of a Felony.
2. On December 13, 1999, prior to the Defendant being sentenced, the defendant filed a pro se Motion to Vacate Plea. The Defendant argued that motion on his own behalf and the motion was subsequently denied. The court conducted a *Faretta* hearing that resulted in the Defendant representing himself at sentencing. (See exhibit 1, excerpt of December 13, 1999 transcript)
3. The Defendant filed an appeal, and the Third District reversed and remanded the case for the court to hold a hearing on the Defendant's Pro Se Motion to Withdraw Plea. Weaver v. State, 845 So.2d 280 (Fla 3rd DCA 2003). The court conducted an evidentiary hearing

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and again denied the Defendant's Pro Se Motion to Withdraw Plea. That denial was affirmed by the Third District Court of Appeal on October 1, 2008.

4. On December 9, 2009, the Defendant filed a Motion for Post-Conviction Relief alleging among numerous allegations, "The Trial Court Committed Error of Constitutional Magnitude by Denying the Defendant of his Right to Have Assistance of Counsel at Sentencing." That motion was denied by this court on April 7, 2009 and affirmed on appeal on July 15, 2009. (See exhibit 2, Defendant's Motion for Post-Conviction Relief, State's Response, Order Denying and Mandate).
5. Ultimately on November 2, 2015, this court entered an order prohibiting the Defendant from filing any further pro se motions.
6. On September 25, 2015, Defense Counsel filed this current Motion to Correct Illegal Sentence on the Defendant's behalf alleging an inadequate *Faretta* inquiry.

Memorandum of Law

A Motion for Correction of Sentence under Rule 3.800 is the wrong vehicle for relief. In order to be entitled to relief under Rule 3.800, the defendant must demonstrate that his sentence is illegal from the face of the record. In *Blakley v. State*, 746 So. 2d 1182 (Fla. 4th DCA 1999), Judge Farmer defined an illegal sentence in this manner, "[t]o be illegal within the meaning of rule 3.800(a) the sentence must impose a kind of punishment that no judge under the entire body of sentencing statutes could possibly inflict under any set of factual circumstances." *Id.* at 1186-87. The Florida Supreme Court has quoted and approved of Judge Farmer's definition. See *Carter v. State*, 786 So. 2d 1173, 1178 (Fla. 2001). The Defendant is clearly attempting to file an untimely Rule 3.850 motion for post-conviction relief under the guise of Rule 3.800 which has no time limitation.

Treating this motion as a Rule 3.850 motion still requires this motion to be denied. First, the Defendant's Motion is untimely. Under Rule 3.850(b), no motion "shall be filed or considered" if filed more than two (2) years after the judgment and sentence become final with some very narrow exceptions, none of which are alleged here. In this case, the Judgment and Sentence became final in November of 2008 more than eight (8) years ago.

Additionally, the motion is successive as the allegations in the present motion have previously been litigated. The present claim is identical or substantially similar to those raised in prior motions, specifically, the defendant's December 9, 2009 motion. (See exhibit 2)

Conclusion

The Defendant uses the wrong vehicle for relief in his Motion. The type of factual concerns raised should have been filed in a Rule 3.850 Motion for Post-Conviction Relief. The Defendant's motion is untimely and successive.

The Defendant's Motion to Correct Illegal Sentence pursuant to Rule 3.800(a) puts forth no legal basis to correct the sentence in this case. Rather, the Defendant makes factual allegations which should properly be argued in a Rule 3.850 motion. Additionally, the Defendant has previously litigated this issue. However, even if they had not been litigated the motion was filed well beyond the time limitations allowed under Rule 3.850. Based upon the foregoing reasons and authorities cited herein it is hereby **DENIED**.

The Defendant, Michael Weaver, is hereby notified that he has the right to appeal this order to the District Court of Appeal of Florida, Third District within thirty (30) days of the signing and filing of this order.

The Clerk of this Court is hereby ordered to send a copy of this order to the Defendant Attorney, Dane Chase, Chase Law Firm, P.A., 111 2nd Ave NE, Suite 334, Saint Petersburg, FL 33701.

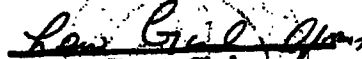
In the event that the Defendant takes appeal of this order, the Clerk of this Court is hereby ordered to transport to the appellate court, as part of this order, the following items:

1. Defendant's Motion to Correct Illegal Sentence;
2. The State's Response to Defendant's Motion;
3. Attachments (transcripts/exhibits);
4. This Order.

DONE AND ORDERED at Miami, Miami-Dade County, Florida, this the 20th day of April, 2017.


STACY D. GLICK
CIRCUIT COURT JUDGE

I CERTIFY that a copy of this order has been furnished to
COMMOVANT, Michael Weaver by mail this 25th day
of April, 20 17


Deputy Clerk
