Exhibit: A

DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

CHARLES DENARD MILBRY,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

No. 2D2025-1592

November 5, 2025

Appeal pursuant to Fla. R. App. P. 9.141(b)(2) from the Circuit Court for Hillsborough County; Barbara Twine Thomas, Judge.

Charles Denard Milbry, pro se.

PER CURIAM.

Affirmed.

KELLY, MORRIS, and SLEET, JJ., Concur.

Opinion subject to revision prior to official publication.

MANDATE

DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

This cause having been brought to this Court for review, and after due consideration the Court having issued its opinion;

YOU ARE HEREBY COMMANDED that such further proceedings be had in said cause, if required, in accordance with the decision of this Court, incorporated as part of this order, and with the rules of procedure and laws of the State of Florida.

WITNESS the Honorable Chief Judge Matthew C. Lucas of the District Court of Appeal of the State of Florida, Second District, and the seal of said Court at Tampa, Florida, on this day.

DATE:	November 25, 2025
CASE NO.	2D2025-1592
COUNTY OF ORIGIN:	Hillsborough County
L.T. CASE NO.	96-CF-010145-A
CASE STYLE:	Charles D. Milbry, Appellant(s) v. State of Florida, Appellee(s).

Mary Elizabeth Kuenzel
2D2025-1592 11/25/25
Mary Elizabeth Kuenzel, Clerk
2D2025-1592 11/25/25

Exhibit: B

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
FOR HILLSBOROUGH COUNTY, FLORIDA
Criminal Justice and Trial Division

STATE OF FLORIDA **CASE NO.: 96-CF-010145-A**

v.

CHARLES DENARD MILBRY, **DIVISION: A**
Defendant.
_____/

ORDER DENYING DEFENDANT'S MOTION TO CORRECT SENTENCE 3.800(A)

THIS MATTER is before the Court on Defendant's "Motion to Correct Sentence 3.800(a)," filed on March 18, 2025. After reviewing Defendant's motion, the court file, and the record, the Court finds as follows.

On January 13, 1997, Defendant pleaded guilty pursuant to a negotiated plea agreement to Carjacking (count one), Robbery (Deadly Weapon - $300 or More) (count two), and Kidnapping (count three). (*See* Judgment and Sentence, attached.) The Court sentenced Defendant as a Habitual Felony Offender ("HFO") to one year of community control followed by four years of probation on each count. *Id.* On March 21, 1997, the Court found Defendant guilty of violating his community control and sentenced him to life imprisonment on all counts. *Id.* On December 9, 1998, the Second District Court of Appeal reversed and remanded the trial court's violation findings and ordered for the reinstatement of Defendant's community control status. *See Milbry v. State*, 722 So. 2d 834 (Fla. 2d DCA 1998). On April 12, 1999, the Court found Defendant in violation of his community control and sentenced him as a HFO to life imprisonment on each count. *Id.* The Second District Court of Appeal affirmed Defendant's conviction and sentence, and the mandate issued on October 11, 2000. *See Milbry v. State*, 768 So. 2d 524 (Fla. 2d DCA 2000).

In his motion, Defendant argues his sentence is illegal because it is "in violation of ex post facto laws where carjacking was not a qualifying offense for a habitual felony designation under section 775.084(1)(5)(b)(1) Fla. Stat. (1996), at the time [...] defendant's offense occurred." (*See* Defendant's motion, attached.) Defendant asserts the Court must show that he "affirmatively elected to be sentenced under the sentencing scheme at the time of sentencing, waiving his right to be sentenced based on the sentencing scheme" in place at the time his offense occurred. *Id.* Defendant requests to be "re-sentenced allowing [him] to affirmative[ly] elect to be sentenced to the sentencing scheme that was in effect at the time [...] [his] offense occurred." *Id.*

The record reflects that Defendant has raised the same or a substantially similar allegation in prior motions. Specifically, in Defendant's May 4, 2015, "Motion to Correct Illegal Sentence," Defendant argued that the trial court violated his ex post facto rights when it enhanced his sentence based on his carjacking conviction. (*See* Defendant's May 4, 2015, Motion to Correct Illegal Sentence, attached.) Defendant claimed that his HFO sentence for his carjacking conviction was illegal because carjacking was not an enumerated offense under section 775.084 at the time of the crime in July of 1996. *Id.* The Court denied Defendant's claims, finding that Defendant's HFO sentence was legal. (*See* January 6, 2016, Order, attached.) The Court noted in relevant part: "a defendant may be sentenced as a habitual offender as long as his instant offense and one of his prior two felony convictions is not a violation of section 893.13 relating to purchase or possession of a controlled substance. *Id.*

As such, Defendant is collaterally estopped from raising this allegation. *See State v. McBride*, 848 So. 2d 287, 289-92 (Fla. 2003); *Blackwell v. State*, 65 So. 3d 1211, 1212–13 (Fla. 2d DCA 2011) (holding that a "defendant is collaterally estopped from bringing a successive rule 3.800(a) only where it has been raised previously and decided on the merits"); *Fuston v. State,* 764

So. 2d 779, 779 (Fla. 2d DCA 2000) (holding that "a defendant is not entitled to successive review on a rule 3.800(a) motion of a specific issue which has already been decided against him."). Accordingly, this allegation is successive and must be denied.

The Court warns Defendant that the filing of successive motions may be deemed frivolous and an abuse of process entitling the Court to direct the clerk not to accept future motions from him. *See Weidmann v. State*, 934 So. 2d 607 (Fla. 5th DCA 2006). Additionally, the Court warns that the filing of frivolous actions may subject Defendant to disciplinary procedures pursuant to the rules of the Department of Corrections. *See* §§ 944.279; 944.28(2)(a), Fla. Stat. (2017); *see also Griffin v. State*, 962 So. 2d 1026 (Fla. 3d DCA 2007).

It is therefore **ORDERED AND ADJUDGED** that Defendant's "Motion to Correct Sentence 3.800(a)" is hereby **DENIED**.

Defendant has thirty (30) days from the date of this Order within which to appeal.

DONE AND ORDERED in Chambers, in Hillsborough County, Florida.

96-CF-010145A 5/13/2025 3:27:28 PM

96-CF-010145-A 5/13/2025 3:27:28 PM
Judge Barbara Twine Thomas

HON. BARBARA TWINE THOMAS,
Circuit Judge

Attachments:
Motion to Correct Sentence 3.800(a)
Judgment and Sentence
May 4, 2015, Motion to Correct Illegal Sentence (without attachments)
January 6, 2016, Order (without attachments)

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Assistant State Attorney, Division A

