

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

JULY TERM 2010

ROGER L. JOHNSON,

Appellant,

v.

Case No. 5D10-2530

STATE OF FLORIDA,

Appellee.

/

Opinion filed November 12, 2010

3.800 Appeal from the Circuit
Court for Orange County,
Richard F. Conrad, Judge.

Roger L. Johnson, Orlando, pro se.

No Appearance for Appellee.

PALMER, J.

Roger L. Johnson (defendant) appeals the trial court's order denying his post-conviction motion filed pursuant to rule 3.800(a) of the Florida Rules of Criminal Procedure. In his motion, the defendant alleged that he was illegally sentenced for the second degree felony of leaving the scene of an accident involving a death because he was sentenced to eight years of incarceration followed by 12.5 years of probation. In the order denying the defendant's motion, the trial court noted that, at the time the defendant committed the offense, the crime was classified as a second-degree felony punishable by up to 15 years in prison, and that the defendant received a legal sentence of eight years of incarceration followed by five years of probation. See §316.027(1)(b) Fla. Stat. (2007). However, the trial court did not attach the judgment

and sentence to its order. Accordingly, this matter is remanded to the trial court for the attachment of the portions of the record that conclusively refute the defendant's claim.

See Rodriguez v. State, 919 So. 2d 576 (Fla. 3d DCA 2006).

REVERSED and REMANDED.

TORPY and LAWSON, JJ., concur.