

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

CHIEVY JONES,

Appellant,

v.

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

CASE NO. 1D10-1733

STATE OF FLORIDA,

Appellee.

/

Opinion filed May 9, 2011.

An appeal from the Circuit Court for Duval County.

Linda F. McCallum, Judge.

Nancy A. Daniels, Public Defender, and Joel Arnold, Assistant Public Defender, Tallahassee, for Appellant.

Pamela Jo Bondi, Attorney General, Trisha Meggs Pate, Bureau Chief, Criminal Appeals, and Michael T. Kennett, Assistant Attorney General, Tallahassee, for Appellee.

PER CURIAM.

Appellant, Chievy Jones, asserts that the trial court erroneously conducted a resentencing hearing without the presence of counsel or Appellant. We agree.

Appellant filed a Motion to Correct an Illegal Sentence pursuant to Rule 3.800(a), Florida Rules of Criminal Procedure. The trial court granted the motion

in part, concluding that the HVFO designation on the armed kidnapping counts and the 15-year minimum mandatory sentences should be stricken. However, the trial court conducted the resentencing without Appellant or his counsel present. Cross v. State, 18 So. 3d 1235, 1236 (Fla. 1st DCA 2009). Accordingly, we reverse and remand for a resentencing hearing in the presence of Appellant and his counsel. Id.; Bines v. State, 837 So. 2d 1146, 1147 (Fla. 1st DCA 2003).

REVERSED and REMANDED.

WOLF, PADOVANO, and ROWE, JJ., CONCUR.