

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

BYRON K. DOUGLAS,
Appellant,

v.

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

CASE NO. 1D11-1146

STATE OF FLORIDA,
Appellee.

/

Opinion filed June 30, 2011.

An appeal from the Circuit Court for Leon County.
James C. Hankinson, Judge.

Byron K. Douglas, pro se, Appellant.

Pamela Jo Bondi, Attorney General, and Brooke Poland, Assistant Attorney General, Tallahassee, for Appellee.

PER CURIAM.

The appellant appeals the denial of his motion to correct illegal sentence filed pursuant to Florida Rule of Criminal Procedure 3.800(a). The appellant's

direct appeal is currently pending, and thus, the trial court was without jurisdiction to rule on the motion to correct illegal sentence. See Day v. State, 770 So. 2d 1262 (Fla. 1st DCA 2000) (holding that effective January 13, 2000, a party may not file a rule 3.800(a) motion during the pendency of a direct appeal). “A prematurely filed motion for postconviction relief should be dismissed by a trial court and may be refiled after the direct appeal is final.” Bunkley v. State, 800 So. 2d 663, 664 (Fla. 2d DCA 2001). Thus, we reverse the denial of the appellant’s motion and remand for the trial court to dismiss the motion without prejudice to the appellant’s right to refile after his direct appeal is final.

REVERSED and REMANDED with instructions.

WOLF, DAVIS, and MARSTILLER, JJ., CONCUR.