

SIXTH DISTRICT COURT OF APPEAL OF FLORIDA

Jose Manuel Vazquez Torres v. State of Florida

Case No. 6D2024-2452 (Fla. 6th DCA July 18, 2025) · No. 6D2024-2452 · Decided July 18, 2025

SUMMARY

The Sixth District Court of Appeal of Florida partially reversed the denial of Jose Manuel Vazquez-Torres's successive Florida Rule of Criminal Procedure 3.800 motion. The court held that the motion's challenge to the relationship between his habitual felony offender and prison release reoffender sentences had not been raised previously and required consideration by the postconviction court, while affirming the denial of the remaining grounds.

CASE DETAILS

COURT	Sixth District Court of Appeal of Florida
WRITING FOR THE COURT	Gannam, J.; Stargel, J.; Nardella, J.
JURISDICTION	Sixth District Court of Appeal of Florida
DECIDED	July 18, 2025
DOCKET	6D2024-2452
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the denial of a successive Florida Rule of Criminal Procedure 3.800 motion to correct an illegal sentence.
PRECEDENTIAL VALUE	published
PARTIES	Jose Manuel Vazquez Torres v. State of Florida

TOPICS

- post-conviction relief
- sentence modification
- sentencing
- appellate procedure
- criminal procedure

PRACTICE AREAS

- criminal procedure
- post-conviction relief
- sentencing
- appellate procedure

QUESTIONS PRESENTED

- Whether the postconviction court could dismiss the HFO–PRR illegal-sentence claim as successive under Florida Rule of Criminal Procedure 3.800(a)(2) when that ground had not been raised in the prior

rule 3.800 motions.

2. Whether the postconviction court's denial of the successive rule 3.800 motion should otherwise be affirmed.

HOLDINGS

1. A successive rule 3.800 motion may not be dismissed under rule 3.800(a)(2) on the basis that the ground is not new or different when the particular ground was not raised in the prior rule 3.800 motions identified by the postconviction court. The HFO–PRR ground therefore had to be considered in the first instance on remand.
2. The denial of the successive rule 3.800 motion was affirmed in all respects other than the HFO–PRR ground.

KEY QUOTATIONS

“A court may dismiss a second or successive motion if the court finds that the motion fails to allege new or different grounds for relief and the prior determination was on the merits.” (at 2)

FACTUAL BACKGROUND

Vazquez-Torres received an habitual felony offender sentence for grand theft and a prison release reoffender sentence for burglary of a dwelling. In a successive rule 3.800 motion, he argued that the HFO sentence was illegal because it was not longer than the PRR sentence. The appellate court focused on whether that particular ground had been raised and decided in his prior rule 3.800 motions.

PROCEDURAL HISTORY

Vazquez-Torres filed a successive rule 3.800 motion challenging several aspects of his sentence, including an HFO sentence for grand theft that was allegedly illegal because it was not longer than his PRR sentence for burglary of a dwelling. The postconviction court denied the motion under rule 3.800(a)(2). The Sixth District Court of Appeal reversed as to the HFO–PRR ground because that ground had not been raised in the prior rule 3.800 motions identified by the postconviction court, affirmed in all other respects, and remanded for consideration of that ground in the first instance.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for the postconviction court to consider the HFO–PRR ground in the first instance; the order is affirmed in all other respects.

CASES CITED

- Clark v. State, 72 So. 3d 222 (Fla. 2d DCA 2011)

- Johnson v. State, 108 So. 3d 1130 (Fla. 1st DCA 2013)

OPINION

PER CURIAM.

SIXTH DISTRICT COURT OF APPEAL STATE OF FLORIDA
_____ Case No. 6D2024-2452 Lower Tribunal No. 2012-CF-007189
_____ JOSE MANUEL VAZQUEZ TORRES, Appellant, v. STATE
OF FLORIDA, Appellee. _____ Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for Polk County. Catherine L. Combee, Judge.

July 18, 2025 GANNAM, J. Jose Manuel Vazquez-Torres appeals the denial of his successive rule 3.800 motion for correction of illegal sentence. The motion raises several grounds, including that his habitual felony offender (HFO) sentence for grand theft is illegal because it is not longer than his prison release reoffender (PRR) sentence for burglary of a dwelling, citing Clark v. State, 72 So.

3d 222 (Fla. 2d DCA 2011), and Johnson v. State, 108 So. 3d 1130 (Fla. 1st DCA 2013). The postconviction court denied the motion under rule 3.800(a)(2), which provides, “A court may dismiss a second or successive motion if the court finds that the motion fails to allege new or different grounds for relief and the prior determination was on the merits.” The HFO–PRR ground identified above, however, was not raised in the prior rule 3.800 motions identified by the postconviction court.

Accordingly, as to this ground, we reverse the postconviction court’s order and remand for the postconviction court to consider the ground in the first instance. We affirm the postconviction court’s order in all other respects. AFFIRMED in part; REVERSED in part; REMANDED with instructions. STARGEL and NARDELLA, JJ., concur. Jose Manuel Vazquez Torres, Milton, pro se.

James Uthmeier, Attorney General, Tallahassee, and Marilyn Frances Muir, Chief Assistant Attorney General, Tampa, for Appellee. NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING AND DISPOSITION THEREOF IF TIMELY FILED 2