

SIXTH DISTRICT COURT OF APPEAL OF FLORIDA

Bobby Lee Saviory v. State of Florida

Case No. 6D2023-2740 (Fla. 6th DCA Apr. 25, 2025) · No. 6D2023-2740 · Decided April 25, 2025

SUMMARY

The Sixth District Court of Appeal of Florida affirmed a corrected written sentence in Bobby Lee Saviory’s criminal case. The court held that the trial court had orally imposed legal sentences, and that correcting a scrivener’s error in the written sentencing documents was a ministerial correction rather than a resentencing requiring appointment of counsel. The opinion also addressed the scope of the prior remand concerning Saviory’s Florida Rule of Criminal Procedure 3.800(a) motion.

CASE DETAILS

COURT	Sixth District Court of Appeal of Florida
WRITING FOR THE COURT	Per Curiam; Chief Judge Blair Allen Traver; Judge Robert J. Stargel; Judge F. Scott Wozniak
JURISDICTION	Sixth District Court of Appeal of Florida
DECIDED	April 25, 2025
DOCKET	6D2023-2740
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the summary denial and subsequent correction of a sentence under Florida Rule of Criminal Procedure 3.800(a).
STANDARD OF REVIEW	De novo review of the legality of a sentence and the legal effect of the sentencing transcript and written judgment.
PRECEDENTIAL VALUE	Published opinion; precedential status is identified as published in the supplied metadata, although the primary disposition is per curiam and the substantive reasoning appears in a special concurrence.
PARTIES	Bobby Lee Saviory v. State of Florida

TOPICS

- post-conviction relief
- sentence modification
- right to counsel
- criminal procedure
- appellate procedure

PRACTICE AREAS

- Criminal law
- Postconviction relief
- Appellate procedure
- Sentencing

QUESTIONS PRESENTED

1. Whether the successor postconviction court conducted an impermissible resentencing without appointing counsel when it corrected the written sentencing documents after reviewing the original sentencing transcript.
2. Whether Saviory was entitled to relief under Florida Rule of Criminal Procedure 3.800(a) when the oral sentence was legal but the written sentence contained a scrivener's error.

HOLDINGS

1. The successor postconviction court did not conduct a resentencing requiring appointment of counsel; it performed the ministerial task of correcting written sentencing documents to conform to the legal sentence orally imposed at the original sentencing.
2. Saviory was not entitled to correction of an illegal sentence because the sentence orally imposed by the trial court was legal; the written judgment could be corrected to reflect that oral sentence.

KEY QUOTATIONS

“When ordered in the postconviction context, “resentencing is an entirely new, independent proceeding.”” (at 4)

“Thus, “[a] defendant has a right to be present and to be represented by counsel at any resentencing proceeding from a rule 3.800(a) motion[.]”” (at 4)

“But this is not what the Fifth District mandated, and regardless of its description, this is not what the successor postconviction court ultimately did.” (at 4)

“Still, this was not a “resentencing” because the Fifth District did not order a resentencing, and Saviory was not entitled to one when the trial court imposed a legal sentence from the start.” (at 5)

FACTUAL BACKGROUND

A jury found Saviory guilty in 2014 of attempted carjacking with a firearm, robbery with a firearm, and aggravated battery. The trial court orally imposed thirty years in prison on count one and fifteen years on count two, both legally permissible sentences, but the written judgment and sentence contained a scrivener's error that made the count-one sentence appear to exceed the statutory maximum. After reviewing the sentencing transcript on remand, the successor postconviction court corrected the written judgment nunc pro tunc to reflect the oral sentences.

PROCEDURAL HISTORY

Following a 2014 jury verdict, the trial court orally imposed legal sentences for attempted carjacking with a firearm and robbery with a firearm, but the written sentencing documents contained a scrivener's error that appeared to impose an illegal sentence on count one. Saviory moved to correct the sentence under Rule 3.800(a). The postconviction court summarily denied relief, and the Fifth District reversed and remanded for further proceedings. On remand, the successor postconviction court reviewed the sentencing transcript, determined that

the oral sentences were legal and that the written sentences had been transposed, and entered a corrected judgment and sentence nunc pro tunc to the original sentencing date. The Sixth District affirmed.

DISPOSITION

affirmed

CASES CITED

- Saviory v. State, 348 So. 3d 1206, 1207 (Fla. 5th DCA 2022)
- State v. Akins, 69 So. 3d 261, 269 (Fla. 2011)
- Taylor v. State, 140 So. 3d 526, 529 (Fla. 2014)
- State v. Scott, 439 So. 2d 219, 220-21 (Fla. 1983)
- Jordan v. State, 143 So. 3d 335, 338 (Fla. 2014)
- Acosta v. State, 46 So. 3d 1179, 1180 (Fla. 2d DCA 2010)
- Lovett v. State, 395 So. 3d 1113, 1115 (Fla. 6th DCA 2024)
- Williams v. State, 957 So. 2d 600, 603 (Fla. 2007)