

DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

Walden v. State of Florida

No. 2D2024-0155 (Fla. Dist. Ct. App. May 2, 2025) · No. 2D2024-0155 · Decided May 2, 2025

SUMMARY

The Second District Court of Appeal of Florida reversed the denial of Gerald T. Walden’s Florida Rule of Criminal Procedure 3.800(a) motion challenging his sentences as illegal. The court held that the trial court improperly delegated to the Department of Corrections the authority to determine whether Walden’s 2017 sentences would run concurrently with or consecutively to his earlier sentences. The case was remanded for further proceedings, with one judge dissenting based on the view that the claim challenged sentencing procedure rather than an illegal sentence.

CASE DETAILS

COURT	District Court of Appeal of Florida, Second District
WRITING FOR THE COURT	Northcutt, Judge; Northcutt; Rothstein-Youakim; Black
JURISDICTION	District Court of Appeal of Florida, Second District
DECIDED	May 2, 2025
DOCKET	2D2024-0155
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Walden appealed the denial of his motion to correct illegal sentences under Florida Rule of Criminal Procedure 3.800(a).
STANDARD OF REVIEW	De novo review of whether a sentence is illegal and whether the alleged sentencing error is cognizable under Florida Rule of Criminal Procedure 3.800(a).
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Gerald T. Walden v. State of Florida

TOPICS

- sentencing
- post-conviction relief
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

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

QUESTIONS PRESENTED

1. Whether a trial court may delegate to the Department of Corrections or another administrative agency the decision whether new sentences will run concurrently with or consecutively to prior sentences associated with a conditional-release violation.
2. Whether a sentence resulting from the trial court's failure to exercise its discretion under section 921.16(1), Florida Statutes, is an illegal sentence cognizable under Rule 3.800(a).
3. Whether the fact that the sentencing error could have been raised on direct appeal precludes relief under Rule 3.800(a).
4. Whether the harmless-error rule discussed in *Brooks v. State* applies to Walden's claim.

HOLDINGS

1. A trial court must exercise its discretion to determine whether sentences imposed for offenses not charged in the same charging document will run concurrently or consecutively; it cannot defer that sentencing authority to the Department of Corrections or another administrative agency.
2. Walden's sentences were illegal because the trial court improperly delegated sentencing authority to the Department of Corrections, and the error was cognizable in a Rule 3.800(a) motion.
3. The fact that an illegal-sentence claim could have been raised on direct appeal does not make it noncognizable under Rule 3.800(a), which permits correction of an illegal sentence at any time.
4. The *Brooks* rule that a scoresheet error is harmless when the trial court could have imposed the same sentence under a correct scoresheet does not govern a claim that the trial court improperly delegated its sentencing authority.

KEY QUOTATIONS

"In fact," the court observed, "the trial court must" exercise its discretion to order the sentences to run concurrently or consecutively and "cannot defer the structure of the sentence to the Department of Corrections because the Department lacks such sentencing authority." (at 5)

"To the contrary, rule 3.800(a) allows a court to correct an illegal sentence imposed by it "at any time" and does not qualify that authority if the error is cognizable on direct appeal." (at 8)

FACTUAL BACKGROUND

In 2017, a jury found Walden guilty of two felony drug offenses and soliciting another to commit prostitution. The trial court imposed consecutive five-year terms for the felonies and time served for the misdemeanor. Because Walden was on conditional release from 1992 sentences, the court believed the Florida Parole Commission or Department of Corrections would determine whether the new sentences ran concurrently or consecutively and expressly declined to make that determination.

PROCEDURAL HISTORY

A jury convicted Walden in 2017 of possessing cocaine, possessing a controlled substance, and soliciting another to commit prostitution. The circuit court imposed consecutive five-year prison terms for the felony convictions

and time served for the misdemeanor, while declining to determine whether the sentences would run concurrently with sentences from 1992 for which Walden was on conditional release. The postconviction court denied Walden's Rule 3.800(a) motion, concluding that his claim was cognizable only on direct appeal and that the sentences were not illegal; the appellate court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings consistent with the opinion, including correction of Walden's illegal sentences through an exercise of the trial court's discretion to order the sentences concurrent with or consecutive to the prior sentences.

CASES CITED

- Logan v. State, 964 So. 2d 209 (Fla. 5th DCA 2007)
- Gillard v. State, 827 So. 2d 316, 317 (Fla. 1st DCA 2002)
- Crump v. State, 137 So. 3d 1148, 1149-50 (Fla. 3d DCA 2014)
- Shorter v. State, 113 So. 3d 940, 941 (Fla. 5th DCA 2013)
- Larson v. State, 247 So. 3d 26, 31-32 (Fla. 2d DCA 2018)
- Richardson v. State, 947 So. 2d 1219, 1220-21 (Fla. 1st DCA 2007)
- Scantling v. State, 711 So. 2d 524, 525-26 (Fla. 1998)
- McCarthur v. State, 766 So. 2d 292 (Fla. 4th DCA 2000)
- Carter v. State, 786 So. 2d 1173, 1181 (Fla. 2001)
- Pearson v. Moore, 767 So. 2d 1235, 1238-39 (Fla. 1st DCA 2000)
- White v. State, 19 So. 3d 407, 407-08 (Fla. 1st DCA 2009)
- Peters v. State, 310 So. 3d 1133, 1134 (Fla. 2d DCA 2021)
- Pardo v. State, 596 So. 2d 665, 666 (Fla. 1992)
- Platt v. State, 664 So. 2d 307, 308 (Fla. 2d DCA 1995)
- Brooks v. State, 969 So. 2d 238, 243-44 (Fla. 2007)
- Palmer v. State, 368 So. 3d 18, 19 (Fla. 4th DCA 2023)
- Pierce v. State, 281 So. 3d 569, 570-71 (Fla. 5th DCA 2019)
- Termitus v. State, 279 So. 3d 324, 327 (Fla. 5th DCA 2019)
- Steward v. State, 931 So. 2d 133, 134 (Fla. 2d DCA 2006)
- Morgan v. State, 350 So. 3d 712, 716 (Fla. 2022)
- Judge v. State, 596 So. 2d 73, 77 (Fla. 2d DCA 1991) (en banc)
- Wright v. State, 911 So. 2d 81, 83 (Fla. 2005)
- Blakley v. State, 746 So. 2d 1182, 1186-87 (Fla. 4th DCA 1999)

- Ives v. State, 993 So. 2d 117, 120 (Fla. 4th DCA 2008)
- Folsom v. State, 383 So. 3d 843, 845 (Fla. 1st DCA 2023)
- Robinson v. State, 365 So. 3d 467, 469 (Fla. 4th DCA 2023)
- Heare v. State, 283 So. 3d 390, 392 n.1 (Fla. 2d DCA 2019)
- Lindquist v. State, 155 So. 3d 1193, 1194 (Fla. 2d DCA 2014)
- Martinez v. State, 211 So. 3d 989, 991-92 (Fla. 2017)
- Thomas v. State, 921 So. 2d 657, 661 (Fla. 2d DCA 2006)
- Martinez v. State, 393 So. 3d 851, 851 (Fla. 1st DCA 2024)
- Widemond v. State, 27 So. 3d 162, 163 (Fla. 1st DCA 2010)
- State v. Gabriel, 314 So. 3d 1243, 1252 (Fla. 2021)
- Boyd v. State, 387 So. 3d 454, 461 (Fla. 1st DCA 2024)
- Kirkland v. State, 633 So. 2d 1138 (Fla. 2d DCA 1994)

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