

**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