

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D2023-0428

KELVIN J. ROBINSON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Gadsden County.
Ronald W. Flury, Judge.

October 16, 2024

PER CURIAM.

Kelvin J. Robinson appeals his judgment and sentence. The trial court found that Robinson had violated his probation but erroneously stated that he had admitted to the probation violations. Robinson filed a Florida Rule of Criminal Procedure 3.800(b)(2)(B) motion to correct the error but the trial court entered its order on the 68th day after the motion was filed.

We AFFIRM the judgment and sentence but REVERSE, in part, for the trial court to correct the scrivener's error because its order correcting the mistake was untimely. *See Fla. R. Crim. P. 3.800(b)(2)(B)* ("The trial court shall resolve this motion in accordance with the procedures in subdivision (b)(1)(B), except that *if the trial court does not file an order ruling on the motion*

within 60 days, the motion shall be deemed denied.” (emphasis supplied)); *Ogden v. State*, 117 So. 3d 479, 480 (Fla. 1st DCA 2013) (holding that an order filed outside the sixty days provided for in rule 3.800(b)(2) is a legal nullity).

B.L. THOMAS, BILBREY, and WINOKUR, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Candice K. Brower, Regional Counsel, Gainesville, and Michael J. Titus, Charles Burden, Jr., and Samatha K. Porche, Assistant Regional Conflict Counsel, Criminal Conflict & Civil Regional Counsel, Tallahassee, for Appellant.

Ashley Moody, Attorney General, Tallahassee, for Appellee.