

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D17-3424

WOODROW W. ROSE,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Jefferson County.
Dawn Caloca-Johnson, Judge.

October 31, 2018

PER CURIAM.

In 1982, Woodrow Rose pleaded guilty to sexual battery and armed burglary of a dwelling. He was sentenced to thirty years for the former and life for the latter. In 2017, he filed a rule 3.800 motion, alleging he was serving an illegal sentence. The trial court denied the motion, and Rose appeals.

Rose argued first that he pleaded guilty to only one count, not two. The plea hearing transcript refutes that claim. But Rose also argued that his life sentence was not orally pronounced. If there is a discrepancy between the sentence orally pronounced and the written sentencing documents, the oral pronouncement controls. *Williams v. State*, 957 So. 2d 600, 603 (Fla. 2007). Here, we cannot determine whether there was any such discrepancy

because the record does not include the original sentencing transcript. In this circumstance, we must reverse the order on appeal to the extent it denies with prejudice a claim regarding this discrepancy. *Id.* at 604 (“If the sentencing transcript is neither in the file nor attached to the motion, the motion should be denied without prejudice to the filing of an amended motion properly attaching the sentencing transcript.”).

AFFIRMED in part, REVERSED in part, and REMANDED.

ROBERTS, RAY, and WINSOR, JJ., concur.

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

Woodrow W. Rose, pro se, Appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, for Appellee.