

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2007

THEODORE WILLIAMSON a/k/a **THEODORE JAWORSKI**,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D02-1840

[June 20, 2007]

ON MANDATE FROM THE FLORIDA SUPREME COURT

PER CURIAM.

The opinion of October 9, 2002, is withdrawn and the following is substituted therefor.

Theodore Williamson, also known as Theodore Jaworski, entered a guilty plea on February 11, 1993, in exchange for a time-served sentence and one year of probation. Thereafter, the State used this prior conviction to enhance a subsequent conviction sentenced on December 3, 1993. In March 2001, Williamson sought a writ of error coram nobis, claiming, in part, that his attorney affirmatively misadvised him of the future, collateral consequences of the February 1993 plea. In *Jaworski v. State*, 828 So. 2d 1046 (Fla. 4th DCA 2002), *quashed by State v. Williamson*, 32 Fla. L. Weekly S181 (Fla. Apr. 26, 2007), we reversed and noted conflict as to this issue. The State sought review in the supreme court.

The supreme court recently granted relief to the State, quashed our ruling, and remanded for further consideration in light of *Bates v. State*, 887 So. 2d 1214 (Fla. 2004), and *State v. Dickey*, 928 So. 2d 1193 (Fla. 2006). See *State v. Williamson*, 32 Fla. L. Weekly S181 (Fla. Apr. 26, 2007). We recognize the claim of affirmative misadvice concerning the collateral consequences of the plea has no merit under *Dickey*, but we affirm the denial of the petition because it was untimely filed under *Bates*. Because Williamson was in custody from December 1993 until the time he filed his petition, he was required to comply with the two-

year limitations period under rule 3.850. The petition, filed in 2001, was untimely under rule 3.850 and could not be considered as a petition for writ of error coram nobis.

Affirmed.

STEVENSON, C.J., FARMER and SHAHOOD, JJ., concur.

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Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Alfred J. Horowitz, Judge; L.T. Case No. 92-20335 CF10A.

Theodore Williamson a/k/a Theodore Jaworski, Bushnell, pro se.

Bill McCollum, Attorney General, Tallahassee, David M. Schultz and Melanie Dale Surber, Assistant Attorneys General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.