

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2005

MICHAEL ROYSTER,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D04-4445

[August 17, 2005]

PER CURIAM.

Michael Royster appeals the summary denial of his post-conviction motion. We find that further proceedings are required with regard to two of his claims.

Royster was convicted of strong arm robbery, and sentenced to a prison releasee reoffender sentence of thirty years, with a fifteen year mandatory term. In his fourth point Royster argues that counsel was ineffective having conceded guilt to petit theft during opening and closing statements. In his final claim, Royster's position is that counsel's concession interfered with Royster's decision surrounding his right to testify. *Oisorio v. State*, 676 So. 2d 1363 (Fla. 1996).

Specifically, Royster alleges that he wanted to testify that he obtained possession of the property at issue following a drug deal that went bad. In other words, Royster wanted to testify that he did not commit a robbery or theft, but was given the property in exchange for drugs. In light of the concession, he could not testify accordingly. *Compare Harris v. State*, 768 So. 2d 1179 (Fla. 4th DCA 2000).

We remand for further review of these related claims. The denial order is affirmed on appellant's remaining points.

STONE, SHAHOOD and HAZOURI, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Paul L. Backman, Judge; L.T. Case No. 00-21292 CF10A.

Michael Royster, South Bay, pro se.

Charles J. Crist, Jr., Attorney General, Tallahassee, and David M. Schultz, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.