

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

**LAWRENCE OWENS,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D05-3611

[October 5, 2005]

PER CURIAM.

We vacate the July 20, 2005 order denying appellant's 3.850 motion. The better practice when a 3.850 motion is filed while a direct appeal is pending, and the trial court lacks jurisdiction to hear the motion, is to stay proceedings on the motion until resolution of the pending appeal. *See Perez v. State*, 834 So. 2d 882 (Fla. 4th DCA 2002). Accordingly, this case is remanded for further proceedings.

GROSS, HAZOURI and MAY, JJ., concur.

\* \* \*

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Lee Jay Seidman, Judge; L.T. Case No. 04-5686 CF10A.

Lawrence Owens, Miami, pro se.

No appearance required for appellee.

***Not final until disposition of timely filed motion for rehearing.***