

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

THOMAS MARTONE,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D05-4064

[June 27, 2007]

PER CURIAM.

Thomas Martone appeals the denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. The sole issue before the trial court at the evidentiary hearing on the motion was whether Martone's trial attorney rendered ineffective assistance by failing to properly advise him of the consequences of declining a lenient plea offer allegedly made by the state. The trial court denied the motion based on the court's finding that the state had not made any plea offers. The prosecutor unequivocally testified that he had not made a plea offer. Thus, although the evidence was conflicting, this court must defer to the trial court's factual finding on this point, as it was supported by competent substantial evidence. *See Stephens v. State*, 748 So. 2d 1028, 1033-34 (Fla. 1999).

Affirmed.

WARNER, KLEIN and HAZOURI, JJ., CONCUR.

* * *

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Eileen M. O'Connor, Judge; L.T. Case No. 97-14350 CF10A.

Maury Halperin, Fort Lauderdale, for appellant.

Bill McCollum, Attorney General, Tallahassee, and Mark J. Hamel,

Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.