

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

KARIM GHANEM,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D06-4451

[January 31, 2007]

PER CURIAM.

Appellant Karim Ghanem appeals the summary denial of his rule 3.850 motion for postconviction relief, wherein he claimed the trial court imposed an illegal departure sentence. The motion did not contain a sufficient oath, and, thus, the lower court properly denied relief as if the motion had been filed under rule 3.800(a), Florida Rules of Criminal Procedure. Under this rule, relief is not warranted because the upward departure sentence could have been imposed pursuant to section 921.0016(3)(d), Florida Statutes (2003). *See Brooks v. State*, 930 So. 2d 835 (Fla. 4th DCA 2006) (en banc). We affirm, without prejudice to Ghanem filing a proper rule 3.850 motion within the time remaining under rule 3.850. *See generally Greenwood v. State*, 802 So. 2d 401 (Fla. 4th DCA 2001).

SHAHOOD, TAYLOR and MAY, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Cheryl J. Alemán, Judge; L.T. Case No. 96-19226 CF10A.

Fred Haddad of Fred Haddad, P.A., Fort Lauderdale, for appellant.

No appearance required for appellee.

Not final until disposition of timely filed motion for rehearing