

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

JAMES TORGERSON,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D07-1202

[October 3, 2007]

ON MOTION FOR REHEARING

PER CURIAM.

We grant the State's motion for rehearing/clarification inasmuch as to clarify that our opinion, issued August 1, 2007, should not be read to intimate that the State conceded the charges should be dismissed upon remand. Instead, the State properly conceded that the inappropriate version of the statute of limitations was used to support the summary denial of Torgerson's motion for postconviction relief and that doing so was error. The State has not conceded that dismissal of the charges is warranted. As we wrote in the original opinion, upon remand, the lower court may hold any hearing it deems necessary to properly resolve this motion on the merits. The disposition remains, the order on appeal is reversed and the case is remanded for the reasons stated in the original opinion, as clarified herein.

GUNTHER, WARNER and KLEIN, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Ilona M. Holmes, Judge; L.T. Case No. 05-8344 CF10A.

James Torgerson, Crawfordville, pro se.

Bill McCollum, Attorney General, Tallahassee, and Laura Fisher Zibura, Assistant Attorney General, West Palm Beach, for appellee.