

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2008

GONZALO ESTRADA,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D07-329

[July 16, 2008]

ON REMAND FROM THE SUPREME COURT

PER CURIAM.

Gonzalo Estrada appeals the summary denial of his rule 3.850 motion arguing that he should have been allowed to amend his motion before it was denied as legally insufficient. We initially affirmed the circuit court's order with a citation to our decision in *Spera v. State*, 923 So. 2d 543 (Fla. 4th DCA 2006). Estrada sought review in the Florida Supreme Court, and his case was stayed pending the supreme court's decision in *Spera v. State*, 971 So. 2d 754 (Fla. 2007). Following its decision in *Spera*, the supreme court remanded this case for reconsideration. *Estrada v. State*, 980 So. 2d 1053 (Fla. 2008). On remand to this court, the state has no objection to remanding this case to the trial court to allow Estrada to amend his 3.850 motion.

Accordingly, the circuit court's order is reversed and this case is remanded for the trial court to strike Estrada's motion with leave to amend pursuant to *Spera v. State*, 971 So. 2d 754 (Fla. 2007).

STONE, POLEN and MAY, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Michael G. Kaplan, Judge; L.T. Case No. 01-18790 CF10A.

Gonzalo Estrada, Florida City, pro se.

Bill McCollum, Attorney General, Tallahassee, and Joseph A. Tringali, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.