

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

ANDERSON LORMEUS,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D07-92

[May 16, 2007]

PER CURIAM.

This is an appeal by Anderson Lormeus from an order denying a motion filed under Florida Rule of Criminal Procedure 3.850.

Appellant entered into a plea agreement in which he pleaded no contest to one count of child neglect. At the change of plea hearing, appellant requested three weeks before the sentence was imposed so that he could take care of some personal business. The court granted appellant's request. On March 20, 2003, appellant was sentenced to ten years in prison which the trial court agreed to mitigate to 364 days in county jail and four years probation if appellant surrendered at the agreed upon time. Appellant did not surrender but absconded to New York. Subsequently, New York authorities detained appellant and he was extradited to Florida on approximately August 29, 2005.

Appellant filed his rule 3.850 motion on January 31, 2006, nearly three years after appellant's judgment and sentence became final. Appellant did not allege any of the exceptions to the two-year time limit found in Florida Rule of Criminal Procedure 3.850(b). The court below denied the motion on the merits. However, the trial court should have denied the motion as untimely, and we affirm on that basis.

WARNER, POLEN and MAY, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for

the Seventeenth Judicial Circuit, Broward County; Jeffrey R. Levenson, Judge; L.T. Case No. 03-383 CF10B.

Clayton R. Kaeiser, Miami Beach, for appellant.

Bill McCollum, Attorney General, Tallahassee, and Sue-Ellen Kenny, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.