

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

CHARLES R. MONROE,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D08-1027

[December 17, 2008]

PER CURIAM.

Charles Monroe appeals the summary denial of his Fla.R.Crim.P. 3.850 motion for postconviction relief. He alleged in part that an aggravated assault charge he had been acquitted of was erroneously included on his sentencing scoresheet. In a sworn memorandum of law supporting his motion, he alleged that he would not have entered his negotiated plea if the scoresheet had been correctly calculated. Monroe alleged that his plea was involuntary based on a material mistake of fact, not that a scoresheet error affected his sentence. *See Williams v. State*, 825 So. 2d 994 (Fla. 4th DCA 2002); *Smith v. State*, 741 So. 2d 579, 580 (Fla. 3d DCA 1999). The state did not address this specific claim below or on appeal, and it is not refuted by the records incorporated in the trial court's order denying the motion.

Accordingly, the order denying the 3.850 motion is reversed and this case is remanded for further proceedings.

Reversed and Remanded.

WARNER, POLEN and TAYLOR, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Lucy Chernow Brown, Judge; L.T. Case Nos. 2002CF012054AMB, 2002CF012055AMB, 2003CF008684AMB & 2005CF012799AMB.

Charles R. Monroe, Florida City, pro se.

Bill McCollum, Attorney General, Tallahassee, and Melanie Dale Surber, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.