

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

DERICK REED,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D08-735

[April 2, 2008]

PER CURIAM.

We affirm the lower court's order striking the appellant's second motion for postconviction relief as the court correctly understood it was without jurisdiction. *See Washington v. State*, 823 So. 2d 248 (Fla. 4th DCA 2002). At the time of the filing of the motion, and at the time of the ruling, the appellant had a pending appeal in this court seeking reversal of an order denying his first rule 3.850 motion. Our affirmance is without prejudice to appellant's right to refile the motion within thirty days after this court's mandate issues in the pending appeal, case 4D07-3652, if necessary. *See Charles v. State*, 950 So. 2d 486 (Fla. 4th DCA 2007).

WARNER, FARMER and STEVENSON, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Nineteenth Judicial Circuit, Martin County; Sherwood Bauer, Jr., and Robert E. Belanger, Judges; L.T. Case Nos. 432005CF000205A, 432005CF000748A, 432005CF000814A & 432005CF00816A.

Derick Reed, South Bay, pro se.

No appearance required for appellee.

Not final until disposition of timely filed motion for rehearing.