

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

TROLIS KIRBY, DOC# 361463

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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Case No. 2D13-5880

Opinion filed August 15, 2014.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Polk County; Roger A. Alcott, Judge.

Trolis Kirby, pro se.

PER CURIAM.

We affirm in all respects the postconviction court's denial of Trolis Kirby's untimely motion filed under Florida Rule of Criminal Procedure 3.850. We write only to note that we agree with the opinions of our sister courts in Mendoza v. State, 93 So. 3d 458, 458 (Fla. 4th DCA 2012), and Harricharan v. State, 59 So. 3d 1162, 1163 (Fla. 5th DCA 2011), which explicitly reject the claim that the ruling in State v. Montgomery, 39 So. 3d 252 (Fla. 2010), can be applied retroactively to cases that were final before Montgomery was decided.

Affirmed.

MORRIS, BLACK, and SLEET, JJ., Concur.