

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

JOSEPH C. PARZYCK, III,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
 _____)

Case No. 2D08-2327

Opinion filed December 10, 2008.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Lee County; Thomas S. Reese, Judge.

PER CURIAM.

We affirm the order of the postconviction court summarily denying Joseph Parzyck's motion filed pursuant to Florida Rule of Criminal Procedure 3.850. Our affirmance is without prejudice to any right Parzyck may have to file a facially sufficient rule 3.850 motion, within sixty days from the date of the issuance of the mandate in this case, alleging that trial counsel was ineffective in failing to file a motion to suppress the firearm. Such a motion shall not be considered successive.

Affirmed.

KELLY, LaROSE, and KHOUZAM, JJ., Concur.