

Third District Court of Appeal

State of Florida, July Term, A.D. 2008

Opinion filed December 31, 2008.

Not final until disposition of timely filed motion for rehearing.

No. 3D06-2977

Consolidated: 3D06-2696

Lower Tribunal No. 93-239

Eric M. Hoffman,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Monroe County, Wayne M. Miller, Judge.

Eric M. Hoffman, in proper person.

Bill McCollum, Attorney General, and Maria T. Armas, Assistant Attorney General, for appellee.

Before SUAREZ, CORTIÑAS, and ROTHENBERG, JJ.

SUAREZ, J.

Eric M. Hoffman appeals from a trial court order denying his petition for relief filed pursuant to Florida Rule of Criminal Procedure 3.800. We reverse the trial court's order insofar as it denied relief on special condition 20.

Special condition 20 of the appellant's probation directs him not to obtain or use a post office box. This is a statutory condition authorized by paragraph 948.30(2)(c), Florida Statutes (2006). However, this subsection states that the condition is only effective for a probationer or community controllee whose crime was committed on or after October 1, 1997. The Appellant has asserted that his offense date was 1991, and that the statute is inapplicable to him. The present record does not conclusively refute his claim. We thus remand for further consideration of the appellant's claim regarding probation condition 20 in light of Biller v. State, 618 So. 2d 734 (Fla. 1993). We affirm the order with regard to the Appellant's remaining claims.

Affirmed in part, reversed in part, and remanded.