

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JULY TERM, A.D. 2005

KEITH H. CANTY,

**

Appellant,

**

vs.

** CASE NO. 3D05-357

THE STATE OF FLORIDA,

**

Appellee.

** LOWER
TRIBUNAL NOS. 03-31045
03-16480
01-34599

Opinion filed September 28, 2005.

An Appeal under Florida Rule of Appellate Procedure
9.141(b) (2) from the Circuit Court for Miami-Dade County,
Leonard E. Glick, Judge.

Keith H. Canty, in proper person.

Charles J. Crist, Jr., Attorney General, and Angel L.
Fleming, Assistant Attorney General, for appellee.

Before GERSTEN, GREEN, and FLETCHER, JJ.

PER CURIAM.

Keith Canty appeals from the trial court's order denying
his motion to define or clarify sentence pursuant to Florida

Rule of Criminal Procedure 3.700(b). We treat this as a Motion to Correct Sentence under Florida Rule of Criminal Procedure 3.850.

Canty claims that his plea agreement provided for concurrent and coterminous sentences in three cases. The docket sheets, judgments and sentences in the circuit court cases do not indicate that the sentences are coterminous. However, the forms attached to Canty's motion to define sentence include a handwritten notation that the sentences will run concurrent and coterminous.

Because Canty has alleged an inconsistency between the terms of his plea agreement and the sentence imposed, and because there is no transcript of the plea colloquy to determine the terms of the plea agreement and sentence, the record fails to conclusively demonstrate that Canty is not entitled to the relief he seeks. Accordingly, we reverse and remand. On remand the trial court is directed to either attach those portions of the record that conclusively refute Canty's claim, or to award him the relief that he seeks.