

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

DUANE THOMAS CALLAHAN,

Appellant,

v.

Case Nos. 5D20-1241 and
5D20-1243

STATE OF FLORIDA,

Appellee.

Opinion filed March 12, 2021

3.850 Appeal from the Circuit
Court for Seminole County,
Debra S. Nelson, Judge.

Duane Thomas Callahan, Chipley,
pro se.

Ashley Moody, Attorney General,
Tallahassee, and Douglas T. Squire,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Duane Thomas Callahan appeals the denial of his postconviction motions challenging his sentence after entering a negotiated plea. Callahan

argues that the October 1, 2019 amendment to section 812.014, Florida Statutes, applied retroactively to his case based on this court's decision interpreting section 775.022(4), Florida Statutes, in *Dean v. State*, 303 So. 3d 257, 259 (Fla. 5th DCA 2020). The State correctly concedes error based on *Dean*.

We therefore reverse and remand for resentencing unless the State elects to withdraw from the plea agreement.¹ See *Taylor v. State*, 899 So. 2d 1191, 1193 (Fla. 1st DCA 2005). Given our disposition, we need not reach Callahan's remaining arguments challenging his sentence.

REVERSED and REMANDED.

EVANDER, C.J., EDWARDS and EISNAUGLE, JJ., concur.

¹ We limit our review to Callahan's postconviction motions as framed.