

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

JANUARY TERM 2004

NAPOLEON POWERS,

Appellant,

v.

Case No. 5D04-1389

STATE OF FLORIDA,

Appellee.

Opinion filed July 2, 2004

3.850 Appeal from the Circuit Court
for Osceola County,
Thomas W. Turner, Judge.

Napoleon Powers, Lowell, pro se.

No Appearance for Appellee.

PALMER, J.

Napoleon Powers (defendant) appeals the summary denial of his rule 3.850 motion, arguing that his procedural due process rights were violated when he was designated as a sexual predator.¹ He relies on Espindola v. State, 855 So.2d 1281 (Fla. 3d DCA 2003), in which the Third District held Florida's Sexual Predator Act to be unconstitutional on the basis that it fails to provide minimal due process. However, this court has held that the Act is constitutional and does not violate a defendant's procedural due process rights. See Rickman v. State, 871 So.2d 310 (Fla. 5th DCA 2004). The other district courts are in accord. See Allen v. State, 29 Fla. L. Weekly D892 (Fla. 2d DCA April 14, 2004); Frazier v. State, 29 Fla. L. Weekly D369 (Fla. 1st DCA Feb. 6, 2004); Dejesus v. State, 862 So.2d 847 (Fla. 4th DCA

¹See Fla. R. Crim. P. 3.850.

2003).

Accordingly, we affirm the denial of the defendant's rule 3.850 motion and certify conflict with Espindola.

AFFIRMED; CONFLICT CERTIFIED.

SAWAYA, C.J. and TORPY, J., concur.