

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

JULY TERM 2004

TONY KEARSE,

Appellant,

v.

CASE NO. 5D04-1774

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed July 23, 2004

3.850 Appeal from the Circuit Court
for St. Johns County,
Robert K. Mathis, Judge.

Tony E. Kearse, Lake Butler, pro se.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Allison Leigh Morris,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

In this post-conviction proceeding, Appellant, who received a 30-year sentence after he pled no contest to Sale of Cocaine, a second degree felony, challenges the summary denial of his Florida Rule of Criminal Procedure 3.850 motion. Appellant claims that his counsel, who had received notice that the State intended to seek felony habitual offender enhancement of his sentence, failed to explain that the effect of the enhancement was that Appellant could receive a sentence of double the statutory maximum. Because the order denying relief on this ground fails to attach portions of the record which refute this claim, we

reverse and remand this cause with instructions that the lower court either attach portions of the record that refute his claim or conduct an evidentiary hearing.

Appellant's other points on appeal are either redundant, not cognizable under rule 3.850, or are otherwise lacking in merit.

REVERSED AND REMANDED.

THOMPSON, MONACO and TORPY, JJ., concur.