

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

JULY TERM 2006

BRIAN K. BOOSKA,

Appellant,

v.

Case No. 5D06-2195

STATE OF FLORIDA,

Appellee.

Opinion filed August 11, 2006

3.850 Appeal from the Circuit
Court for Brevard County,
Tonya B. Rainwater, Judge.

Brian Booska, Bushnell, pro se.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Anthony J. Golden,
Assistant Attorney General, Daytona
Beach, for Appellee.

MONACO, J.

Brian K. Booska appeals the summary denial of his rule 3.850 motion for post-conviction relief. We affirm.

Mr. Booska was convicted of vehicular homicide and sentenced to 208 months in the custody of the Florida Department of Corrections. His plenary appeal from the judgment and sentence was affirmed by this court *per curiam* and without opinion. See *Booska v. State*, 847 So. 2d 484 (Fla. 5th DCA 2003). He then raised sixteen claims of

ineffective assistance of counsel in his 3.850 motion, all of which were summarily denied by the trial court. In this appeal Mr. Booska seeks review of the order denying post-conviction relief.

At least thirteen of the grounds for relief listed by Mr. Booska consist of a rehash of the points raised on his direct appeal in this case, all of which were rejected. Inasmuch as we found no error in the underlying claims, Mr. Booska's counsel cannot logically be deemed ineffective for not more vigorously objecting to or raising these issues below. Moreover, rule 3.850 does not provide a second avenue for raising purportedly reversible errors that were argued in the plenary appeal by re-raising them in the guise of ineffective assistance claims. See, e.g., *Freeman v. State*, 761 So. 2d 1055, 1067 (Fla. 2000); *Vazquez v. State*, 653 So. 2d 486 (Fla. 5th DCA 1995).

As to the remaining issues raised, we conclude that the trial court did not err in denying them summarily. The sentence imposed was not vindictive¹, the autopsy photographs were properly admitted², and the combined claims do not amount to cumulative error entitling Mr. Booska to post-conviction relief³.

AFFIRMED.

THOMPSON and ORFINGER, JJ., concur.

¹ See *Wilson v. State*, 845 So. 2d 142 (Fla. 2003).

² See *Hertz v. State*, 803 So. 2d 629, 642 (Fla. 2001), *cert. denied*, 536 U.S. 963 (2002).

³ See *Johnson v. State*, 769 So. 2d 990, 1006 (Fla. 2000).