

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

JIMMY KLINE,

Appellant,

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

v.

CASE NO. 1D03-2887

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed November 17, 2003.

An appeal from the Circuit Court for Leon County.
Kathleen F. Dekker, Judge.

Appellant, pro se.

Charlie Crist, Attorney General; Charlie McCoy, Senior Assistant Attorney General,
Tallahassee, for Appellee.

PER CURIAM.

Appellant challenges the trial court's summary denial of his rule 3.850 motion
for postconviction relief. Appellant originally filed his motion on March 23, 2003.

He subsequently filed a motion requesting leave to amend on June 3, 2003.

Without addressing the motion to amend, the trial court denied Appellant's motion
on June 6, 2003. Because we find that the trial court erred in ruling on Appellant's

motion without allowing amendment, we reverse and remand.

A rule 3.850 motion may be amended at any time prior to the trial court's ruling as long as the amended motion is filed within the two-year limitations period prescribed by rule 3.850(b). Gaskin v. State, 737 So. 2d 509, 518 (Fla. 1999).

Similarly, when a defendant files a motion requesting leave to amend before the trial court rules and before the limitations period expires, the trial court must allow the amendment prior to ruling on the motion. Beard v. State, 827 So. 2d 1021 (Fla. 2d DCA 2002). Accordingly, we reverse the trial court's denial of Appellant's original motion. On remand, Appellant shall be allowed to amend his original motion and the trial court should rule on the amended motion without reference to its previous order.

REVERSED and REMANDED.

BOOTH, BENTON and LEWIS, JJ., CONCUR.