

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

MICHAEL RAMOS,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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

CASE NO. 1D06-5387

Opinion filed June 27, 2007.

An appeal from the Circuit Court for Columbia County.  
Paul S. Bryan, Judge.

Michael Ramos, pro se, Appellant.

Bill McCollum, Attorney General, and Sheron Wells, Assistant Attorney General,  
Tallahassee, for Appellee.

PER CURIAM.

We vacate the October 6, 2006, lower court's order denying the appellant's Florida Rule of Criminal Procedure 3.850 motion and the February 22, 2007, order denying the appellant's motion to vacate the October 6 order because the lower court did not have jurisdiction to rule on these motions as the appellant's direct appeal in the underlying case is pending in this Court. See Daniels v. State, 712 So. 2d 765

(Fla. 1998). We remand with directions for the lower court to stay the proceedings until the direct appeal is resolved or to dismiss the claim without prejudice to refile if the appellant receives an adverse decision on his direct appeal and jurisdiction returns to the lower court. If refiled, the appellant's motion will not be subject to the restriction against successive motions under rule 3.850(f). See id.; Nelson v. State, 796 So. 2d 1244 (Fla. 1st DCA 2001).

VACATED AND REMANDED.

BARFIELD, ALLEN, and HAWKES, JJ., CONCUR.