

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D17-1638

ROBERT GLEN HILL, II,

Appellant,

v.

JULIE L. JONES, Secretary,
Florida Department of
Corrections,

Appellee.

On appeal from the Circuit Court for Duval County.
Angela M. Cox, Judge.

May 17, 2018

PER CURIAM.

Appellant challenges the trial court's summary denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. The trial court denied the motion as successive in an order filed on February 2, 2017. However, at the time the trial court denied the motion, an appeal of a previously filed postconviction motion raising substantially similar claims was pending in this Court. That appeal did not become final until June 2017. Because the appeal of the earlier 3.850 motion was pending before this Court when the trial court ruled on the instant motion, the trial court was without jurisdiction, as both motions raised the same or related issues. *See McFarland v.*

State, 808 So. 2d 274 (Fla. 1st DCA 2002) (“While an appeal of a prior postconviction motion is pending, the trial court has no jurisdiction to rule on a subsequent post-conviction motion when the issues in the two motions are related.”). Accordingly, we reverse and remand for the trial court to once again consider Appellant’s motion when it has jurisdiction to do so.

REVERSED and REMANDED for further proceedings.

B.L. THOMAS, C.J., and BILBREY and JAY, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Robert Glen Hill, II, pro se, Appellant.

Pamela Jo Bondi, Attorney General, and Sharon S. Traxler, Assistant Attorney General, Tallahassee; Kenneth Steely, General Counsel, Department of Corrections, Tallahassee, for Appellee.