

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D20-3569

REYNALDO R. CATO,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Duval County.
Tatiana Salvador, Judge.

February 26, 2021

PER CURIAM.

Reynaldo R. Cato appeals an order denying his motion for postconviction relief under Florida Rule of Criminal Procedure 3.850 in which he raised a claim of newly discovered evidence. We affirm. *See Jones v. State*, 709 So. 2d 512, 521 (Fla. 1998) (explaining that in order to be considered newly discovered, “the evidence must have been unknown by the trial court, by the party, or by counsel at the time of trial, and it must appear that defendant or his counsel could not have known of it by the use of diligence” (internal marks omitted)).

This is Cato’s third unsuccessful postconviction appeal following his 2014 judgment and sentence for burglary of a dwelling. Cato is warned that any future filings that this Court

determines to be frivolous or malicious may result in the imposition of sanctions, including a prohibition against any further pro se filings in this Court and a referral to the appropriate institution for disciplinary procedures. *See* § 944.279(1), Fla. Stat. (2019) (providing that “[a] prisoner who is found by a court to have brought a frivolous or malicious suit, action, claim, proceeding, or appeal . . . is subject to disciplinary procedures pursuant to the rules of the Department of Corrections”).

RAY, C.J., and LEWIS and JAY, JJ., concur.

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

Reynaldo R. Cato, pro se, Appellant.

Ashley Moody, Attorney General, Tallahassee, for Appellee.