

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2014

JOAN CRAMER,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D13-3791

[October 1, 2014]

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Michael I. Rothschild, Judge; L.T. Case No. 02-1397 CF10B.

Benjamin Scutellaro and Fred Haddad of Fred Haddad, P.A., Fort Lauderdale, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Melynda L. Melear, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

Joan Cramer appeals the summary denial of her rule 3.850 motion, alleging that the State failed to make sentencing recommendations pursuant to the terms of a substantial assistance agreement, which was agreed upon prior to entry of her plea. The State alleged that it was not obligated to fulfill the agreement in light of Cramer's failure to appear at her first sentencing hearing. Both parties state that the substantial assistance agreement was memorialized on tape. Because that agreement is not part of this Court's record, nor were the terms discussed during the plea hearing or shown in the written plea agreement, the record does not refute her allegations. We reverse and remand for the trial court to attach portions of the record refuting her claim or to conduct an evidentiary hearing on the motion.

Reversed and Remanded.

DAMOORGIAN, C.J., STEVENSON and CIKLIN, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.