

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

DEMARIOUS T. CALDWELL,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D14-4496

[March 18, 2015]

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, St. Lucie County; Robert E. Belanger, Judge; L.T. Case No. 562009CF003442A.

Demarious T. Caldwell, Madison, Pro Se.

Pamela Jo Bondi, Attorney General, Tallahassee, and Luke Robert Napodano, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

Demarious Caldwell appeals an order striking his rule 3.850 motion as untimely filed.

On direct appeal, this Court affirmed with a citation to a case pending review in the Florida Supreme Court, and Caldwell sought discretionary review. *Caldwell v. State*, 86 So. 3d 1160 (Fla. 4th DCA 2012). The time for filing a rule 3.850 motion was tolled until the Florida Supreme Court dismissed review of the direct appeal proceedings. *Mullins v. State*, 974 So. 2d 1135 (Fla. 3d DCA 2008). The state concedes that Caldwell's postconviction motion was timely filed and he should have been given leave to correct the pleading deficiencies in his motion. Fla. R. Crim. P. 3.850(f)(2).

Accordingly, we reverse and remand for the trial court to give appellant leave to amend his motion.

Reversed and Remanded.

GROSS, TAYLOR and MAY, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.