

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

JESSE CLEVELAND HARRELL,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D17-1840

[November 8, 2017]

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Charles E. Burton, Judge; L.T. Case Nos. 50-1999-CF-006554-A and 50-2011-CF-012332-A.

Jesse Cleveland Harrell, Cross City, pro se.

No brief filed for appellee.

PER CURIAM.

Jesse Cleveland Harrell timely appeals the summary denial of a rule 3.850 motion. Below the state responded that Harrell's August 5, 2016, motion was untimely filed under rule 3.850 and his claims of scoresheet error did not demonstrate entitlement to relief under rule 3.800(a). The trial court denied the motion based upon the state's response.

On appeal, the state acknowledges that the August 2016 motion was timely filed within two years after the Florida Supreme Court declined jurisdiction to review Harrell's direct appeal in *Harrell v. State*, 173 So. 3d 962 (Fla. 2015). See, e.g., *Leighty v. State*, 87 So. 3d 1262 (Fla. 4th DCA 2012). Accordingly, we reverse the trial court's order and remand for the court to reconsider whether appellant is entitled to relief under rule 3.850.

GROSS, TAYLOR and MAY, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.