

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT

JANUARY TERM 2005

**STEPHEN COVELL,**

Appellant,

v.

**STATE OF FLORIDA,**

Appellee.

***NOT FINAL UNTIL DISPOSITION OF ANY  
TIMELY FILED MOTION FOR REHEARING.***

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CASE NO. 4D04-4219

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Opinion filed January 12, 2005

Appeal of order denying rule 3.800(a) motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Paul L. Backman, Judge; L.T. Case No. 00-21863 CF10A.

Stephen Covell, Century, pro se.

No appearance required for appellee.

PER CURIAM.

We affirm the trial court's denial of appellant's rule 3.800(a) motion without prejudice to his filing a timely rule 3.850 motion in proper form, in light of Dunkley v. State, 865 So. 2d 527 (Fla. 4th DCA 2004), Rinderer v. State, 857 So. 2d 955 (Fla. 4th DCA 2003), and Campbell v. State, 718 So. 2d 886 (Fla. 4th DCA 1998), and certify conflict with Fitzpatrick v. State, 863 So. 2d 462 (Fla. 1st DCA 2004) and Berthiaume v. State, 864 So. 2d 1257 (Fla. 5th DCA 2004).

We do not have a sufficient record to determine whether, if appellant does file a rule 3.850 motion, it would be successive under rule 3.850(f), and this opinion should not be construed as deciding that issue.

WARNER, SHAHOOD and GROSS, JJ.,  
concur.