

**DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA**  
**FOURTH DISTRICT**  
*January Term 2005*

**LINELL FEAGIN,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D04-4633

[ April 27, 2005 ]

PER CURIAM.

Linell Feagin seeks review of an order that denied his request to file a belated motion for postconviction relief. We reverse and remand as Feagin's request is legally sufficient. On remand, the trial court shall conduct an evidentiary hearing to determine whether Feagin retained counsel to timely file a rule 3.850 motion, and whether counsel failed to timely file such a motion. *See Moss v. State, 881 So. 2d 698 (Fla. 4th DCA 2004); Quigley v. State, 848 So. 2d 382 (Fla. 4th DCA), rev. denied, 861 So. 2d 431 (Fla. 2003).*

Klein, HAZOURI and MAY, JJ., concur.

\* \* \*

Appeal of order denying rule 3.850 motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Richard I. Wennet, Judge; L.T. Case No. 93-3739 CFA02.

Bernard F. Daley, Tallahassee, pro se.

Charles J. Crist, Jr., Attorney General, Tallahassee, and Daniel P. Hyndman, Assistant Attorney General, West Palm Beach, for appellee.

**Not final until disposition of any timely filed motion for rehearing.**