

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

ERIC BELL,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D05-1325

June 8, 2005

PER CURIAM.

Eric Bell timely appeals the summary denial of his rule 3.850 motion. Bell's post-conviction motion alleged that his plea was involuntary because counsel misadvised him that he would be eligible to have his records sealed. His motion was filed more than two years after his conviction and sentence became final, and he does not allege under oath when he became aware that counsel's advice was erroneous. As a result, there is no way to determine whether his post-conviction motion was, in fact, timely filed.

Accordingly, the circuit court's order is affirmed without prejudice for Bell to file a legally sufficient motion that states specifically when he became aware of counsel's misadvice. Fla. R. Crim. P. 3.850(b)(1).

STONE, KLEIN and TAYLOR, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Geoffrey D. Cohen, Judge; L.T. Case No. 97-9814 CF10A.

A. Randall Haas, Fort Lauderdale, for appellant.

No appearance required for appellee.

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