

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

MAX FENELON,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D05-4023

[November 23, 2005]

PER CURIAM.

The trial court's summary denial of appellant's 3.850 motion is affirmed. The motion was not filed within the two-year time limit and no applicable exception to the time limitation is alleged. Fla. R. Crim P. 3.850(b).

Affirmance, however, is without prejudice for appellant to raise his claim of an illegal sentence in a legally sufficient motion in the trial court. See Fla. R. Crim. P. 3.800(a) (requiring a 3.800(a) movant to affirmatively allege that the court records demonstrate on their face an entitlement to relief). See also *Toro v. State*, 719 So. 2d 947, 948 (Fla. 4th DCA 1998) (requiring 3.800(a) movant to identify where in the record the information can be located and explain how the record demonstrates entitlement to the relief requested).

STEVENSON, C.J., GUNTHER and GROSS, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Krista Marx, Judge; L.T. Case No. 99-5785 CFA06.

Max Fenelon, Sanderson, pro se.

No appearance required for appellee.

Not final until disposition of timely filed motion for rehearing.