

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2006

TONY C. MARTIN,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D06-2683

[September 6, 2006]

PER CURIAM.

We affirm the order summarily denying the appellant's motion for postconviction relief, but not for the reasons specified by the state's response below. Appellant's motion was untimely filed pursuant to rule 3.850(b), as his sentence did not exceed the limits provided by law for a habitual violent felony offender; and any defect in the notice of intent to habitualize is a procedural error that does not result in an illegal sentence cognizable in a rule 3.800(a) motion, *see Epps v. State*, 912 So. 2d 644 (Fla. 4th DCA 2005). A 3.800(a) motion is the only means by which he could challenge his sentence so many years after his conviction and sentence became final.

SHAHOOD, GROSS and MAY, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Edward A. Garrison, Judge; L.T. Case No. 92-2073CFA02.

Tony C. Martin, South Bay, pro se.

No appearance required for appellee.

Not final until disposition of timely filed motion for rehearing.