DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2007

STEVE FLOWERS,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D06-2896

[January 24, 2007]

PER CURIAM.

Steve Flowers appeals the order summarily denying his rule 3.850 motion for postconviction relief, claiming ineffective assistance of the attorney who represented him at the hearing on his violation of probation (VOP) and his sentencing on revocation of probation. We affirm.

The amended VOP affidavit included four counts, all representing new offenses for which Defendant was arrested, on two separate occasions, while on probation. Defendant claimed his attorney was ineffective in failing to point out to the judge at the VOP hearing that the offenses in counts (3) and (4) had been reduced from felonies to misdemeanors prior to the hearing. Without obtaining a state response on the merits, the trial court summarily denied the motion "for the reasons previously stated by this Court and the 4th DCA."

Although we have considered previous appeals from this defendant, this court has not previously ruled on the same or a related ground for relief; if the trial court has, it did not attach any portions of the record so indicating. Thus, it is not clear to which previously stated reasons the trial court could have been referring. Nevertheless, we affirm on the merits because Flowers did not demonstrate a reasonable likelihood that the outcome of his VOP hearing would have been any different had counsel pointed out that, of the four offenses on which the amended affidavit of VOP was based, the two felony offenses had been reduced to misdemeanors prior to the hearing.

Affirmed.

WARNER, SHAHOOD and TAYLOR, JJ., concur.

<p align="center">*   *   *</p>

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Ana I. Gardiner, Judge; L.T. Case No. 97-10266 CF10A.

Steve Flowers, Monticello, pro se.

No appearance required for appellee.

Not final until disposition of timely filed motion for rehearing.