

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

HASSAN DAVIS,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D06-3062

[October 11, 2006]

PER CURIAM.

Hassan Davis appeals the order denying his amended motion for postconviction relief pursuant to Florida Rule of Criminal Procedure 3.850. The original motion did not contain a proper oath and should have been denied without prejudice. *See Greenwood v. State*, 802 So. 2d 401 (Fla. 4th DCA 2001). The amended motion, which contained a sufficient oath, should have been addressed on the merits, and not denied as successive to the original motion. As such, we reverse the order denying the amended motion and remand to the lower court for consideration on the merits.

GROSS, HAZOURI and MAY, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Andrew L. Siegel, Judge; L.T. Case No. 00-5517 CF10A.

Hassan Davis, Raiford, pro se.

Charles J. Crist, Jr., Attorney General, Tallahassee, and Melynda L. Melear, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.