

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

EMMANUEL MORELAND,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D06-3551

[December 20, 2006]

PER CURIAM.

We affirm the trial court's summary denial of appellant Emmanuel Moreland's motion for post conviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. However, we affirm without prejudice on claim 8 only, insofar as appellant has alleged that his pleas were involuntary due to the failure of the trial court and defense counsel to advise him that he had the right to seek sentencing as a youthful offender under section 958.04(1), Fla. Stat. *See generally Croskey v. State*, 601 So.2d 1326 (Fla. 2d DCA 1992); *Taylor v. State*, 534 So.2d 1181 (Fla. 4th DCA 1988). Affirmance of the summary denial of this claim is without prejudice to appellant's right to refile a timely and verified motion for post conviction relief which alleges whether appellant actually qualified for youthful offender sentencing under the statute, addressing all of the criteria of section 958.04(1), Florida Statutes.

POLEN, FARMER and KLEIN, 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. 05-6036 CFA02.

Emmanuel Moreland, Jasper, pro se.

Charles J. Crist, Jr., Attorney General, Tallahassee, and David M. Schultz, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.