

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

DEXTER GUNN,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D06-3915

[December 27, 2006]

PER CURIAM.

We affirm the trial court's summary denial of the motion for postconviction relief, but not its dismissal. We agree with the defendant that a trial court should review the merits of a postconviction motion, even if untimely, which raises a jurisdictional issue that was not previously considered on the merits. *See Brown v. State*, 917 So. 2d 272 (Fla. 5th DCA 2005) (reversing summary denial of rule 3.850 motion, and holding that the trial court was required to address the merits of defendant's motions for postconviction relief where they raised jurisdictional issues that were not previously raised, as a void judgment may be collaterally attacked at any time). However, the ground for the instant motion lacks merit. The Broward County circuit court, where the defendant was prosecuted for felonies alleged to have been committed in Broward County, did not lack subject matter jurisdiction to rule on a motion to suppress evidence sought to be used in that case, see § 26.012(2)(d), Fla. Stat. (1989), even though the motion was based on the allegedly pretextual nature of a traffic stop, which also resulted in unrelated charges which were prosecuted in the county court.

Affirmed.

STEVENSON, C.J., and TAYLOR, J., concur.
FARMER, J., concurs in result only.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Ilona M. Holmes, Judge; L.T. Case No. 90-20848 CF10A.

Dexter Gunn, Punta Gorda, pro se.

No appearance required for appellee.

Not final until disposition of timely filed motion for rehearing.