

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

DANIEL ALBERT FISHER, JR.,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D07-3651

[October 31, 2007]

PER CURIAM.

This appeal arises from the denial of Appellant's motion pursuant to rule 3.800(a), Florida Rule of Criminal Procedure in which he makes two claims. First, Appellant alleged that errors were made in calculating his scoresheet which equated to a lower minimum possible sentence. The circuit court did not err in summarily denying this claim as Appellant entered into a negotiated plea agreement and the sentence imposed was not illegal. *See Trigg v. State*, 900 So. 2d 674 (Fla. 4th DCA 2005).

Second, he alleged that his counsel was ineffective in representing him in the plea negotiation. The circuit court did not err in summarily denying Appellant's contention. This issue is more properly raised under Florida Rule of Criminal Procedure 3.850. Therefore, the issue of ineffective assistance of counsel is affirmed without prejudice to Appellant filing a motion that includes the oath required by Florida Rule of Criminal Procedure 3.850(c) within the time remaining under rule 3.850(b).

Affirmed.

WARNER, STEVENSON and HAZOURI, JJ., concur.

* * *

Appeal of order denying rule 3.800(a) motion from the Circuit Court for the Nineteenth Judicial Circuit, Martin County; Robert E. Belanger, Judge; L.T. Case No. 432006CF001180A.

David Albert Fisher, Jr., Indiantown, pro se.

No appearance required for appellee.

Not final until disposition of timely filed motion for rehearing