

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2008

LARRY SCHEELE,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D08-2525

[December 3, 2008]

PER CURIAM.

We affirm the trial court's order summarily denying appellant's claims, except for his claim of ineffective assistance of trial counsel for failure to advise him that counsel was under federal investigation for money laundering and other offenses. This claim is not precluded by appellant's previously filed motion to withdraw plea under Florida Rule of Criminal Procedure 3.170. *Gadson v. State*, 807 So. 2d 817 (Fla. 4th DCA 2002). Further, our affirmance of the trial court's denial of that earlier motion does not preclude this claim.

Although this claim was properly raised, it was based on speculation and was legally insufficient. We reverse the trial court's summary denial of this claim with prejudice, and remand so that the trial court can allow appellant to file a facially sufficient amended motion on this claim, if he can do so in good faith, within thirty (30) days of this court's mandate. *See Spera v. State*, 971 So. 2d 754 (Fla. 2007); *Reed v. State*, 989 So. 2d 721 (Fla. 4th DCA 2008).

Affirmed in Part; Reversed and Remanded in Part.

POLEN, GROSS and TAYLOR, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Lucy Chernow Brown, Judge; L.T. Case No. 01-10192 CFA02.

Michael Salnick of Law Offices of Salnick, Fuchs & Bertisch, P.A., West Palm Beach, for appellant.

Bill McCollum, Attorney General, Tallahassee, and Jeanine M. Germanowicz, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.