

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

SCOTT P. MULVANEY,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D08-3296

[October 22, 2008]

PER CURIAM.

Affirmed. As found by the trial court, the postconviction motion is successive and untimely. Even if it were not, it fails to show *Strickland*¹ prejudice as a matter of law. See *Sanders v. State*, 946 So. 2d 953, 960 (Fla. 2006) (“[A]s a matter of law, the possibility of a jury pardon cannot form the basis for a finding of prejudice under *Strickland*.”).

WARNER, FARMER and TAYLOR, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Ana I. Gardiner, Judge; L.T. Case No. 00-21914 CF10A.

Scott Mulvaney, Defuniak Springs, pro se.

No appearance required for appellee.

Not final until disposition of timely filed motion for rehearing.

¹ *Strickland v. Washington*, 466 U.S. 668 (1984).